



QUESTION OF FACT WHETHER THE ‘RECKLESS DISREGARD’ STANDARD APPLIES TO THIS POLICE-CAR TRAFFIC ACCIDENT CASE (SECOND DEPT).

The Second Department, reversing Supreme Court, determined plaintiff’s motion for summary judgment in this police-car traffic accident case should not have been granted. The Second Department held there was a question of fact whether the police officer was an “authorized emergency vehicle” triggering the “reckless disregard” standard of care:

The plaintiff commenced this action to recover damages for personal injuries she allegedly sustained when a vehicle she was operating collided with a police vehicle operated by the defendant Moira T. Larmour, a police officer. According to Larmour’s deposition testimony, the collision occurred when Larmour, who had been traveling west, made an “exaggerated u-turn” in an attempt to conduct a traffic stop of an unrelated vehicle for an allegedly expired inspection sticker and accelerated her vehicle, which spun on wet pavement and came into contact with the plaintiff’s vehicle, which was traveling east. * * *

Vehicle and Traffic Law § 1104 qualifiedly exempts drivers of authorized emergency vehicles from certain traffic laws when they are involved in an “emergency operation” An “emergency operation” is defined under Vehicle and Traffic Law § 114-b as, among other things, pursuing an “actual or suspected violator of the law.” Those privileges set forth in Vehicle and Traffic Law § 1104 include passing through red lights and stop signs, exceeding the speed limit, and disregarding regulations governing the direction of movement or turning in specified directions However, pursuant to Vehicle and Traffic Law § 1104(e), “[t]he foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his [or her] reckless disregard for the safety of others.” This is commonly referred to as the reckless disregard standard of care, which requires a plaintiff to establish that a police officer acted in reckless disregard for the safety of others in order to impose civil liability upon that officer [Anderson v Suffolk County Police Dept., 2020 NY Slip Op 01894, Second Dept 3-18-20](#)