

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 16-5183

DIVISION "N"

SECTION 8

JILLIAN DURAN

VERSUS

GEORGE SILVA, STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.
AND ROB'S AIR CONDITIONING & HEATING, INC.

JUDGMENT

This matter was tried before the court without a jury on April 17, 2019. At the close of oral argument, the court took the matter under advisement to review the deposition of plaintiff's expert, Woodrow Poplin.


PRESENT: Charles M. Thomas, Counsel for plaintiff, Jillian Duran

**Michelle Trowbridge Barreca, Counsel for defendants, George Silva,
Rob's Air Conditioning & Heating, Inc. and State Farm Mutual
Automobile Ins. Co.**

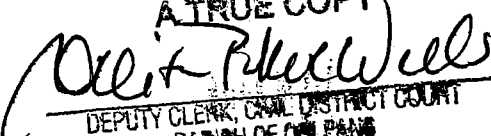
Considering the law and evidence:

IT IS ORDERED, ADJUDGED, AND DECREED that there be judgment herein in favor of defendants, George Silva, Rob's Air Conditioning & Heating, Inc., and State Farm Mutual Automobile Insurance Co. and against plaintiff, Jillian Duran dismissing plaintiff's suit against these defendants with prejudice.

New Orleans, Louisiana this 1st day of May, 2019.



JUDGE ETHEL S. JULIEN

A TRUE COPY

DEPUTY CLERK, CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LA.

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 16-5183

DIVISION "N"

SECTION 8

JILLIAN DURAN

VERSUS

**GEORGE SILVA, STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.
AND ROB'S AIR CONDITIONING & HEATING, INC.**

REASONS FOR JUDGMENT

Plaintiff, Jillian Duran (Ms. Duran) was injured when her bicycle and defendant, Rob's Air Conditioning & Heating, Inc.'s van collided near the intersection of Ursulines Avenue and Decatur Street. For the reasons assigned herein, the court finds that the account of the accident given by defendant, George Silva (Mr. Silva) is more credible.

According to plaintiff, Ms. Durand, she was cycling on French Market Place before making a turn onto Ursulines Avenue, traveling in the wrong direction on this one-way street. When she got to Decatur Street, which was a favored street, she turned from Ursulines Avenue onto Decatur Street without stopping or yielding. After travelling down Decatur Street for about five seconds, on the left hand (wrong) side of the street, defendant, Mr. Silva, who was driving a van owned by his employer, Rob's Air Conditioning & Heating and insured by defendant, State Farm Mutual Automobile Insurance Co., caught up to her, sideswiped her, and continued on some feet before stopping and backing up.

Defendant, Mr. Silva told a bystander that he did not see Ms. Duran and that she had run into him.

Ms. Duran testified that she did not see defendant, Mr. Silva either.

Ms. Duran further testified that defendant, Mr. Silva sideswiped her handlebars, leaving a mark along the side of the van. However, the statement Ms. Duran gave to her medical providers was that she had hit her head on Mr. Silva's mirror.

Defendant, Mr. Silva testified that at the time of the accident, he was travelling about 25 mph on Decatur St. when he heard a "thump" as he was passing Ursulines Avenue. Then, when he looked into his mirror, he saw Ms. Duran on the ground. He further testified that she was never in front of him.

N.O.P.D. Officer, Andrew Harrison investigated the accident. He testified that the

JILLIAN DURAN

VERSUS

**GEORGE SILVA, STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.
AND ROB'S AIR CONDITIONING & HEATING, INC.**

bicycle had been removed prior to his arrival, so he was unable to examine the damage. He did determine that the accident happened at the intersection of Ursulines Avenue and Decatur Street based on the location of the ambulance at the scene to treat Ms. Duran's injuries. He also observed that a motorist traveling on Decatur Street (Mr. Silva) would have had an obstructed view of a vehicle travelling the wrong way on Ursulines Avenue (Ms. Duran) because the building at that intersection was located so close to the street.

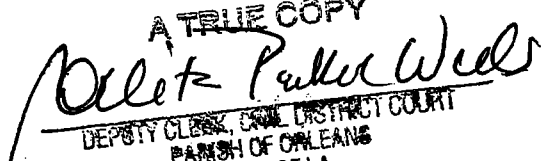
Ms. Duran's expert, Woodrow Poplin, an accident reconstructionist testified by deposition. He made certain assumptions as to where the accident occurred. Specifically, he assumed that at the time of the accident, Ms. Duran had cleared the intersection and was travelling on Decatur Street. However, this assumption conflicts with Ms. Duran's photographs (See Exhibits P2-3), which indicate that the accident occurred at the intersection.

The court finds that based on the law and evidence, Ms. Duran violated several provisions of the Louisiana Revised Statutes and this accident was solely her fault. Specifically, pursuant to La. R.S. 32:194, bicyclists are subject to all of the duties applicable to a driver of a vehicle. In this case, Ms. Duran testified that she was travelling in the wrong direction on Ursulines Avenue in violation of La. R.S. 32: 78(B); she turned from Ursulines Avenue onto Decatur Street, the favored street without stopping or yielding in violation of La. R.S. 32: 121(A), and she was travelling on the wrong side of the street in violation of La. R.S. 32:197(A)

For the foregoing reasons, the court finds in favor of defendants and against plaintiff.

New Orleans, Louisiana this 1st day of May, 2019.


JUDGE ETHEL S. JULIEN

A TRUE COPY

DEPUTY CLERK, CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LA.