

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT:** HON. ARLENE P. BLUTH

**PART** 22

*Justice*

Index Number : 101370/2012  
KOEHLER, NANCY  
vs  
LUCAS, JEROME D.  
Sequence Number : 001  
PARTIAL SUMMARY JUDGMENT

**FILED**

JAN 03 2014

INDEX NO. \_\_\_\_\_  
MOTION DATE \_\_\_\_\_  
MOTION SEQ. NO. \_\_\_\_\_

NEW YORK COUNTY CLERK'S OFFICE *Arlene S.J. on Liability*

The following papers, numbered 1 to 3, were filed with the Court:

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____	No(s). <u>1</u>
Answering Affidavits — Exhibits _____	No(s). <u>2</u>
Replying Affidavits _____	No(s). <u>3</u>

Upon the foregoing papers, it is ordered that this motion is Granted.

Plaintiff testified at her deposition that she was crossing the street in the crosswalk with the "walk" sign in her favor and that she looked for oncoming traffic before she stepped off the curb (plaintiff's transp p.17-18). Thus she has made out a prima facie case of negligence against defendant, who struck her while he was driving around looking for a parking spot (Castagnoli v Girandola, 104 A.D.3d 579 (1st Dept 2013))

The plaintiff was not obligated to keep looking as she was crossing the street (Yakov v Jenkins, 504 N.Y.S.2d 776 (2nd Dept 1986)). That it was a dark & rainy night and plaintiff was wearing dark clothes & carrying a dark umbrella does not make her negligent — nor does the fact that she was leaving a party. Defendant has not set forth proof that contradicts plaintiff's testimony — that she was in the crosswalk

Dated: with the walk sign in her favor, and looked for oncoming traffic before stepping off the curb. Therefore, SJ on liability is granted. J.S.C. *UPPC 12/27/13*

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

1. CHECK ONE: .....  CASE DISPOSED  NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: ..... MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
3. CHECK IF APPROPRIATE: .....  SETTLE ORDER  SUBMIT ORDER  
 DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE

**HON. ARLENE P. BLUTH**