

**SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LINDEL WILTSHIRE,

Plaintiff,

v.

WYATT V.I., INC.,

Defendant

CASE NO.: SX-11-CV-091

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

MEMORANDUM OPINION

BEFORE THE COURT is Defendant Wyatt V.I., Inc.'s Motion for Summary Judgment. Wyatt V.I. moves the Court to dismiss Plaintiff Lindel Wiltshire's complaint with prejudice, claiming no material dispute remains regarding Wyatt V.I.'s negligence because the facts show that Wiltshire's own negligence caused his injuries. (Def. Wyatt V.I.'s Mot. and Mem. of Law in Support of Summ. J. Mot., filed Dec. 3, 2012 (hereinafter "Summ. J. Mot.")). In opposition, Wiltshire claims that Wyatt V.I.'s motion is a "nonstarter," arguing that whether his own negligence contributed to his injuries is "a class[ic] jury question" not appropriate for courts to resolve in a summary judgment motion. (Pl.'s Mem. of Law in Opp'n to Def.'s Summ. J. Mot. at 1, filed Dec. 20, 2012 (hereinafter "Summ. J. Opp'n").) For the reasons stated below, the Court finds that fundamental facts remain in dispute and therefore Wyatt V.I.'s summary judgment motion must be denied.

FACTUAL AND PROCEDURAL BACKGROUND

The record before the Court establishes the following. Lindel Wiltshire was employed by HOVENSA, LLC and worked at the oil refinery on St. Croix, U.S. Virgin Islands. (Compl. ¶ 2, filed Feb. 24, 2011; Answer ¶ 2, filed Apr. 4, 2011.) On February 9, 2011, shortly before midnight, Wiltshire showed up for work, got onto a bicycle, and began riding down along a "pedestrian/bicycle walkway." (Wiltshire Dep. 25:13 & 76:2-3, Mar. 1, 2012,

Ex. 2 to Def. Wyatt V.I.'s Stmt. of Undisputed Material Facts in Supp. of Summ. J. Mot. (hereinafter "Wyatt V.I. Stmt of Facts"), filed Dec. 3, 2012.) HOVENSA allows its employees to use bicycles to move around the refinery. (Wiltshire Dep. 30:15-24; Cadette Dep. 10:4-5 & 12:3-7, Oct. 30, 2012, Ex. 10 to Wyatt V.I. Stmt of Facts.) As Wiltshire was riding toward the walkway southeast of Gas Turbine 13, Ira Hobson and Jerson Cadette, employees of Wyatt V.I., Inc., were driving their forklifts toward the same area. (Hobson Personal or Witness Stmt., Feb. 10, 2011, p. 1 (hereinafter "Hobson Feb. 10, 2011 Stmt."), Ex. 6 to Wyatt V.I. Stmt of Facts; Cadette Dep. 9:12-25, Oct. 30, 2012.) Hobson and other Wyatt V.I. employees had been parking their forklifts in the area for the past few weeks so they could walk up the walkway to a repair room they used as a lunch room. (Hobson Feb. 10, 2011 Stmt at Attachment;¹ Cadette Dep. 9:19-25.) Wiltshire began coasting down the hill approaching the walkway when he "saw some lights in the distance" and then pressed on the brakes to slow down. (Wiltshire Dep. 25:15-18.) About halfway down the hill, Wiltshire realized that the lights were from a forklift "coming up the pedestrian walkway," so he "slammed" on his brakes, "skidded," and turned to avoid hitting the forklift. (Wiltshire Dep. 25:20-22; Cadette Dep. 10:12-15.) Wiltshire was approximately ten to twenty yards away from the forklift when he first saw its headlights. (Wiltshire Dep. 32:23-33:7.) While there was nothing blocking his line of sight to the forklift, the only lighting in the area was from the forklift's headlights. (Wiltshire Dep. 40:2-5 & 30:1-4.) Unable to stop in time, Wiltshire and the bicycle collided into the forklift Hobson was driving. (Compl. ¶¶ 4-5; Answer ¶¶ 4-5; Wiltshire Dep. 33:19-21; Cadette Dep. 10:14-180.) Wiltshire was not wearing a helmet at the time of the collision. (Wiltshire Dep. 58:8-9.)

¹ Inserted between pages "1 of 2" and "2 of 2" of Hobson's February 10, 2011 Statement is a blank sheet of paper, designated by Bates number WYATT-000012, with a handwritten question and answer. Although the February 10, 2011 Statement does not reference an enclosure or attachment, the Court will refer to the blank sheet of paper as an attachment.

When Hobson heard the impact, he stopped and noticed someone on the ground. (Hobson Feb. 10, 2011 Stmt. at 1.) He approached and found Wiltshire lying on the ground and the bicycle Wiltshire was riding on the blades of the forklift he was driving. *Id.* Hobson “did not see anyone riding on the walk way” before the collision. *Id.* Wiltshire was taken away in an ambulance to receive medical treatment and Hobson was later given a drug-alcohol screening test. *Id.* at 2.

Wyatt V.I. employee Norman George, in an email sent shortly after the collision, reported that a traffic incident had occurred involving a HOVENSA employee “riding a bicycle and a Wyatt V.I. employee parking a Fork Lift Truck.” (E-mail from Norman George to Gil Black et al. (Feb. 10, 2011, 2:53 AM) (hereinafter “George Email”), Ex. 5 to Wiltshire Dep.) George wrote that Wiltshire said he was “riding a bike down the hill and came in contact with the side of a [f]ork [l]ift . . . [H]e saw the fork lift and tried to stop the bike but the bike started to skid, he lost control and [then] slid between the forks of the fork lift truck . . . being parked by a Wyatt V.I. employee.” *Id.*

HOVENSA Security Officer Lazarus Joseph also appeared on the scene to investigate the traffic accident between Wiltshire and Hobson and later issued a citation to both Wiltshire and to Hobson. (HOVENSA Stmt. Form, Mar. 3, 2012, p.1, Ex. 8 to Wyatt V.I. Stmt of Facts.) HOVENSA regulations prohibit vehicles from being operated on pedestrian walkways. (Lugo Dep. 41:9-12, Mar. 1, 2012, Ex. 9 to Wyatt V.I. Stmt. of Facts.) Joseph submitted his investigation report to his supervisor, William Harvey, who in turn forwarded the report to Antonio Emmanuel, a superintendent. *Id.* at 1. Harvey phoned Joseph on February 10, 2011, the day after the collision, to inform him that he should not have given Wiltshire a citation because a bicycle is not a motorized vehicle. *Id.* (See also HOVENSA Supp. Report, Mar. 7, 2011, Ex. 4 to Summ. J. Opp’n.) Joseph then “checked and conducted more investigations” and found that company regulations require that all bicycles be

equipped with lights and reflectors and if not the rider must have a light “affixed to his or her helmet.” (HOVENSA Stmt. Form at 1-2.) Because “none of these conditions existed,” Joseph determined that Wiltshire “should have received the citation” and concluded that based on “all [of] the evidence available,” Wiltshire was “the reason why the accident occurred and he [was] the main contributor.” *Id.*

A HOVENSA Incident Evaluation Summary Report prepared regarding the collision between Wiltshire and Hobson noted that the area where the collision occurred was a “pedestrian walkway” and concluded, based on the drag marks left behind, that Wiltshire “was traveling very fast” (See HOVENSA Incident Evaluation Summ. Report at 1 (hereinafter “Incident Report”), Ex. 3 to Summ. J. Opp’n.) The Incident Report also concluded that “[t]here was poor lighting in the area,” no signs “to prohibit any type of traffic” and—partially in conflict with the materials submitted in the record—explained that there was “no established procedure for Bicycle Safety in the facility. The procedure is currently being developed.” *Id.*

Approximately six weeks before the collision, however, HOVENSA had prepared a new procedure to “establish minimum requirements for the safe use of bicycles/tricycles within the HOVENSA refinery.” (HOVENSA, L.L.C. Procedure # 0000, Subject: Bicycle/Tricycles Safety, Dec. 31, 2010, p. 1 (hereinafter “Bicycle Safety Procedure”), Ex. 4 to Wyatt V.I. Stmt of Facts.) The Bicycle Safety Procedure required all personnel, including employees of contractors, to “obey all Traffic Signs and conduct themselves in a safe manner so as not to increase risk of injury to themselves or others.” (Bicycle Safety Procedure at 1; see also Lugo Dep. 41:13-15 (noting that HOVENSA regulations require bicycle-riders follow the same rules and regulations as motorized vehicles).) The new bicycle safety procedures also directed that

[a]ny bicycle/tricycle used within the refinery shall be outfitted with the following safety equipment:

- a. Front and rear wheel reflectors.
- b. A properly functioning braking system as supplied by the manufacturer.
- c. Front and/or Rear mounted basket(s) if small personal or plant materials (no hydrocarbon samples) or tools are transported.
- d. Orange warning bicycle flag mounted on front wheel.
- e. When riding at night an intrinsically safe headlight must be either mounted on the bicycle/tricycle or on the user's hardhat.

Bicycle Safety Procedure. at 3. Similarly, all employees were required to wear hard hats with a chin strap, safety eyeglasses, flame retardant clothing, and steel-toed safety boots when riding bicycles within the refinery and be trained by their departments about the new safety procedures. *Id.* at 2.

Following the accident, Wiltshire filed this lawsuit, claiming that Hobson was negligent in operating the forklift and that Wyatt V.I. was liable for Wiltshire's injuries because Hobson was acting within the scope of his employment when he injured Wiltshire. (Compl. ¶¶ 5-9.) Wyatt V.I. appeared and filed an Answer in which it "admit[ted] that the forklift was operated by Wyatt V.I. employee Ira Hobson." (Answer at 1.) Wyatt V.I. denied liability and asserted, among other affirmative defenses, that Wiltshire's own actions contributed to whatever injuries he sustained. *Id.* at 3. After conducting discovery and attempting to resolve this dispute through mediation, Wyatt V.I. now moves for summary judgment.

DISCUSSION

In moving for summary judgment, Wyatt V.I. claims that the material facts show that Wiltshire's own negligence "so clearly exceeded any alleged negligence of Wyatt" that Wiltshire cannot recover and the Court should dismiss his claims with prejudice. (Summ. J. Mot. 1.) Summary judgment is appropriate where the moving party "shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of

law.” Fed. R. Civ. P. 56(a) (applicable via Super. Ct. R. 7.) “Because summary judgment is a ‘drastic remedy,’ it is only appropriate where ‘the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.’” *Chestnut v. Goodman*, S. Ct. Civ. No. 2011-0082, 2013 WL 4133013, *3 (V.I. Aug. 12, 2013) (quoting *Williams v. United Corp.*, 50 V.I. 191, 194 (V.I. 2008)). Here, because Wyatt V.I. has moved for summary judgment, Wyatt V.I. must show—by “citing to particular parts of materials in the record, including depositions, documents . . . admissions, interrogatory answers, or other materials” Fed. R. Civ. P. 56(c)(1)(A)—that there is no “genuine issue of material fact, at which point the burden shifts to the non-moving party to present ‘affirmative evidence’ from which a jury might reasonably return a verdict in his favor.” *Chapman v. Cornwall*, S. Ct. Civ. No. 2012-0032, 2013 WL 2145092, *2 (V.I. May 15, 2013).

In reviewing a summary judgment motion, the Superior Court must view all of the evidence in the light most favorable to the nonmoving party and also draw all reasonable inferences in that party’s favor. *Joseph v. Hess Oil V.I. Corp.*, 54 V.I. 657, 668 (V.I. 2011). “Facts that could alter the outcome are ‘material facts’ and disputes are ‘genuine’ if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct.” *Clark v. Modern Group, Ltd.*, 9 F.3d 321, 326 (3d Cir. 1993) (citations omitted). “A defendant meets this standard when there is an absence of evidence that rationally supports the plaintiff’s case. A plaintiff, on the other hand, must point to admissible evidence that would be sufficient to show all elements of a prima facie case under applicable substantive law.” *Id.* (citations omitted). “Therefore, to survive summary judgment, the nonmoving party’s evidence must amount to more than a scintilla, but may amount to less (in the evaluation of the court) than a preponderance. *Williams*, 50 V.I. at 195.

According to Wyatt V.I., the facts in the record establish that Wiltshire “drove a bicycle directly into an orange forklift (which was illuminated by headlights and for which he had an unobstructed view)” and therefore Wyatt V.I. is not responsible. (Summ. J. Mot. 1.) In opposition, Wiltshire claims that “[t]he only evidence that Wiltshire was contributorily negligent is that his bike did not have a light.” (Summ. J. Opp’n 1.) Rather, it was Wyatt V.I., through its employee Hobson, Wiltshire argues, who was negligent, noting that if not for Hobson’s forklift being in the pedestrian walkway, he would not have collided into it. *Id.* at 4. Wiltshire further argues that Wyatt V.I. has not shown that he was more at fault than Wyatt V.I. and therefore “this is not a summary judgment case,” but rather should be submitted to a jury to determine the parties’ percentages of fault. *Id.* at 6, 1. In reply, Wyatt V.I. claims that “[b]efore Wyatt V.I. has any burden to assert an affirmative defense, such as contributory negligence, [Wiltshire] must first establish that Wyatt V.I. was negligence [sic] and that such negligence was the proximate cause of his alleged injuries,” a burden Wiltshire has not carried here. (Def. Wyatt V.I., Inc.’s Response to Pl.’s Summ. J. Opp’n 3, filed Jan. 8, 2013.)

The sole claim Wiltshire plead against Wyatt V.I. is for negligence. (*See* Compl. ¶¶ 7-9.) Therefore, in order to establish a claim of negligence, Wiltshire must

demonstrate that the defendant owed the plaintiff a legal duty, that the defendant breached that duty, and that the defendant’s negligence caused the plaintiff’s injury. Causation includes cause in fact and legal causation, which is often referred to as proximate cause. In order for the negligent act to be regarded as the cause in fact of the injury, it must be shown that the injury would not have occurred but for the act. If there are multiple negligent acts that could have caused the injury, then the negligent conduct must be shown to have been a substantial factor in causing the harm.

Brady v. Cintron, 55 V.I. 802, 824 (V.I. 2011) (internal quotation marks and citations omitted). In his Complaint, Wiltshire alleges that Wyatt V.I. and its employees had a duty of care to operate forklifts in a safe manner. (Compl. ¶ 7.) Wiltshire also alleges that Wyatt V.I. “had been previously warned not to operate” forklifts on pedestrian walkways. *Id.* ¶ 6. When

Hobson operated a forklift in the walkway, Wyatt V.I., as Hobson's employer, breached its duty and that breach resulted in his injuries. *Id.* ¶¶ 8-9. Thus, Wiltshire has adequately stated a claim for negligence, namely that Wyatt V.I. had a duty to operate its trucks safely, Hobson breached that duty, and that but for Hobson operating the forklift in an area where he should not have been, Wiltshire would not have been injured.

Wyatt V.I. does not attempt to show that the material facts are not at issue as to the duty of care Wyatt V.I. owed or whether Hobson breached that duty of care. Instead, Wyatt V.I. hones directly in on causation, arguing that the undisputed facts in the record show that it was Wiltshire's own actions that caused his injuries. Specifically, Wyatt V.I. points to HOVENSA's Bicycle Safety Procedure and claims that the record makes clear that Wiltshire violated this Procedure on the night of the collision because Wiltshire was not wearing a helmet (and therefore could not have had a headlight on the helmet), was riding a bicycle that was not equipped with an orange flag or reflective lights on the wheels, and was riding a bicycle at an excessive rate of speed.

Wiltshire does not dispute in his Opposition that he was not wearing a helmet, something he admitted in his deposition. (See Wiltshire Dep. 58:8-9.) But he does dispute that he was speeding and that his own actions caused his injuries. Attached to his Opposition is an Incident Report HOVENSA prepared regarding the collision between Wiltshire and Hobson. While the Incident Report found that Wiltshire "was traveling very fast," the Report also found that "[t]here was poor lighting in the area." (Incident Report at 1.) More importantly, however, the Report concluded that "[t]here is no established procedure for Bicycle Safety in the facility. The procedure is currently being developed." *Id.*

This evidence Wiltshire brought forth directly contradicts the December 31, 2010 Bicycle Safety Procedure Wyatt V.I. provided to prove the absence of any factual dispute regarding Wiltshire's own negligence. Whether the Bicycle Safety Procedure was still "being

developed,” as the Incident Report contended, is now a material fact in dispute between the parties.

Even assuming that the Bicycle Safety Procedure was adopted on December 31, 2010, the record currently before the Court does not show that Wiltshire was trained on the new procedures. (See Lugo Dep. 41:1-5.) The Procedure itself mandated that all employees be trained regarding the new safety measures. (See Bicycle Safety Procedure at 2 (“All personnel who may operate a bicycle/tricycle *shall be trained and documented by their respective department* according to this procedure.” (emphasis added).) If he was never trained, Wiltshire could not have known what the Bicycle Safety Procedure required. His failure to follow the Procedures would not have contributed to his injuries.

The record before the Court is also unclear whether HOVENSA supplied its employees with bicycles to use at the refinery or whether the company merely allowed its employees to bring their own bicycles to work. Assuming HOVENSA did supply its employees with bicycles, then individual employees might not have been responsible for ensuring that their bicycles had reflectors, headlamps, and orange flags along with the other safety equipment required under the Bicycle Safety Procedure. In his deposition, Cadette implied that HOVENSA supplied bicycles to its employees. (See Cadette Dep. 10:4-5 (“the HOVENSA guys, they got bicycles they ride.”).) Similarly, during his deposition, when Wiltshire was shown a photograph of the bicycle he was riding on the night of the collision, he testified “[t]hat’s my bike,” which then prompted Wyatt V.I.’s attorney to ask, “When you say it’s your bike, did you own that bicycle?” (Wiltshire Dep. 30:14-16.) Wiltshire answered no but then explained that the bike was one “HOVENSA provided us with . . . or allowed us to ride.” *Id.* at 30:19-21. The Bicycle Safety Procedure—again assuming that it was adopted—reads as though HOVENSA supplied the bicycles. Area managers must conduct “annual bicycle safety inspection for there [sic] respective area[s]” and bicycles that are

“determined inoperable, in condition of disrepair or a state the [sic] compromises the manufacturer requirement for safety operation shall be immediately removed from service.” (Bicycle Safety Procedure at 3.) If employees brought their own bicycles, i.e., their own personal property, to work for use in getting around the refinery, HOVENSA would not have authority to “remove” such personal property from them.

Likewise, whether Wiltshire was speeding remains in dispute. First, nothing in the record before the Court establishes whether HOVENSA had established a speed limit for bicycles at the oil refinery, and if so what that limit was. Without knowing the speed limit for bicycles, the Court cannot determine whether Wiltshire exceeded that limit. Similarly, the record does not establish the precise speed Wiltshire was riding at, but instead contains only observations of different individuals. For example, the Incident Report concludes, based on the drag marks left in the gravel road, that Wiltshire “was traveling very fast.” (Incident Report at 1.) But the Report does not identify what constitutes “very fast” and whether the speed Wiltshire was traveling at was in violation of the refinery’s regulations. Similarly, Cadette stated that Wiltshire “was riding at an enormous amount of speed.” (Cadette Personal Stmt., Mar. 2, 2012, Ex. 11 to Wyatt V.I. Stmt of Facts.) But Cadette never explained how fast he thought Wiltshire was going, something he could have done given that he recalled, in his deposition, that two other “HOVENSA guys” had passed him on a bicycle just before Wiltshire collided into Hobson’s forklift. (See Cadette Dep. 10:4-15.) Cadette could have explained how fast Wiltshire was going compared to the two other guys who rode by just before Wiltshire. Lastly, George’s email indicated that Wiltshire had “lost control” of the bike after trying to break. (George Email at 1.) And while Wiltshire was not asked directly—at least according to the portions of his deposition the parties submitted—whether he was speeding, he did deny George’s claim that he said he lost control of the bicycle. (Wiltshire Dep. 42:5-8.) ““Contradictory testimony on fundamental facts may not be resolved as a

matter of law and presents a bar to summary judgment.” *Joseph*, 54 V.I. at 667 (quoting *Carty v. Hess Oil V.I. Corp.*, 78 F. Supp. 2d 417, 421 (D.V.I. App. Div. 1999)).

Lastly, the record is also unclear as to what Hobson was doing with the forklift just before the collision occurred. In his February 10, 2011 Statement, Hobson claimed that he was going to park the forklift and then “walk up the hill to the lunch room.” (Hobson Feb. 10, 2011 Stmt at Attachment.) However, in his deposition, Wyatt V.I.’s representative, Carlos A. Lugo, testified that Hobson was driving “the forklift to the lunch area and he was attempting to park it.” (Lugo Dep. 8:25-9:1, Ex. 5, Summ. J. Opp’n.) Lugo explained that a year before the collision between Wiltshire and Hobson, Wyatt V.I. had “an incident” where the vice-president of operations “saw a guy driving a forklift up a very steep grade to the HOVENSA administrative building and then go and use the little convenient store they have” inside. *Id.* at 9:4-9. According to Lugo, Hobson knew that Wyatt V.I. had “made it a policy” to prohibit employees from taking forklifts “to the gate to go and pick up [their] lunch” because Hobson was the union president. *Id.* at 9:17-22 & 10:7-12. Lugo discussed this incident during his deposition immediately after stating that Hobson was driving the forklift to the lunch area, presumably because he believed Hobson was violating Wyatt V.I.’s policies. That contradicts Hobson’s February 10, 2011 Statement that he was parking the forklift before walking up the hill to get lunch. However, in his February 11, 2011 personal statement—when asked whether he was “aware that the forklift should not be used for personal transportation”—Hobson responded, “No I am not aware of that.” (Hobson Personal Stmt., Feb. 11, 2011, p. 1, Ex. 7 to Wyatt V.I. Stmt of Facts.) That contradicts Lugo’s testimony that Hobson knew about the policy because Hobson was the union president.

Based on the discussion above, the Court finds it clear that all of the fundamental facts remain in dispute. Here, Wyatt V.I.’s argument in support of summary judgment is that Wiltshire’s own actions led to his injuries. Wyatt V.I. claims that

Plaintiff was operating a black bicycle at night without any of the required reflective equipment or the required headlight. Plaintiff's operation of the subject bicycle was in direct violation of his employer's written policy. In addition, Plaintiff was driving his bicycle down a decline at such a high rate of speed that he was unable to stop his bicycle with between 45-90 feet of space to do so. Plaintiff's alleged injuries were the direct and proximate consequence of his own negligence, not that of Wyatt V.I..

(Summ. J. Mot. 5.) This entire argument is based, however, on the assumption that the Bicycle Safety Procedure was adopted, that Wiltshire was given training on that procedure, and that it was his responsibility—not HOVENSA's—to outfit the bicycle with the required safety equipment. These facts remain in dispute. The record is contradictory as to whether HOVENSA adopted the Bicycle Safety Procedure. Assuming HOVENSA did adopt the Procedure, the record does not indicate whether Wiltshire received training on that Procedure. The record similarly does not make clear whether HOVENSA supplied its employees with bicycles or whether the employees brought their own—a point that might determine who was responsible for outfitting Wiltshire's bicycle with the required safety equipment. Additionally, while the record shows that Wiltshire was riding his bicycle fast, it does not show the speed he was traveling at or whether HOVENSA had set a speed limit for bicycles. Likewise, whether—as Lugo testified—Hobson knew that Wyatt V.I. explicitly directed its employees not to use forklifts for personal reasons or whether—as Hobson indicated in his February 11, 2011 statement—he was unaware of that policy is contradicted by the record before the Court. The record is also contradictory as to whether Hobson intended to drive up the hill to the lunch room in violation of Wyatt V.I.'s policy or whether Hobson merely intended to park the vehicle and then walk up the hill to the lunch room.

As noted above, the Court cannot resolve such contradictions in a summary judgment motion. See *Joseph*, 54 V.I. at 667. Given that the Court must “view the inferences to be drawn from the underlying facts in the light most favorable to the non-moving party,” *Williams*, 50 V.I. at 194, the Court cannot conclude that the fundamental facts at issue in this

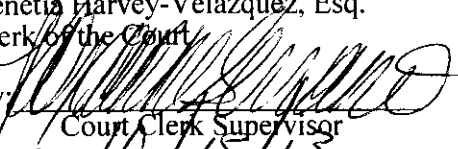
case are not in dispute between the parties. Whether Hobson breached a duty that proximately led to Wiltshire's injuries—and similarly whether Wiltshire contributed to his own injuries in how he operated the bicycle—are questions that must be resolved by a jury.

CONCLUSION

Based on the discussion above, the Court finds that Wyatt V.I. has failed to show that the discovery and disclosures materials on file show that the fundamental facts are not in dispute regarding Wiltshire's negligence claim. Accordingly, Wyatt V.I.'s motion for summary judgment must be denied. An order consistent with this Memorandum Opinion follows.

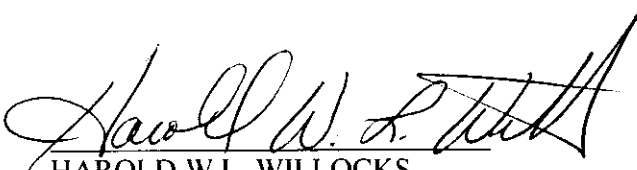
ATTEST:

Venetia Harvey-Velazquez, Esq.
Clerk of the Court

By: 

Court Clerk Supervisor

Dated: 10/15/13


HAROLD W.L. WILLOCKS
Judge of the Superior Court