

# PENNSYLVANIA

## FLEMING AND SETAR SECURE DENIAL OF PLAINTIFF'S PARTIAL MOTION FOR SUMMARY JUDGMENT



**A**lison Fleming and Eugene Setar, Jr.'s argument secured the denial of Plaintiff's partial motion for summary judgment in a slow-moving motor vehicle accident case, where it was alleged that a garbage truck reversed into Plaintiff's vehicle. Plaintiff moved for summary judgment on negligence and factual causation of Plaintiff's injuries.

In their motion, Plaintiff argued no genuine issue of material fact existed as to negligence since Defendant violated a provision of the motor vehicle code resulting in harm to Plaintiff and was therefore negligent. FHMS successfully argued that Plaintiff had not met the burden in establishing negligence as they merely relied on conclusory statements and did not offer any evidentiary support when pointing to the mere occurrence of an accident as evidence of negligence. With respect to Plaintiff's argument as to causation, FHMS distinguished the Andrews case (*Andrews v. Jackson*, 800 A.2d 959 (Pa. Super. 2002)) and its progeny from the case at hand. The Court in Andrews did not remove the issue of factual causation from the jury prior to trial, rather, the Superior Court sent the matters back to the trial court for a new trial on damages. The court rejected Plaintiff's argument and agreed that Plaintiff had not sufficiently established negligence or factual causation.



### Alison Fleming

484.408.0480  
[afleming@fhmslaw.com](mailto:afleming@fhmslaw.com)



### Eugene Setar Jr

484.408.0011  
[esetar@fhmslaw.com](mailto:esetar@fhmslaw.com)