



IN THE SUPREME COURT OF THE STATE OF DELAWARE

GERALD MASARONE,

Plaintiff Below/Appellant,
Cross-Appellee,

v.

SUSAN WELAN,

Defendant Below/Appellee/
Cross-Appellant.

Case No: 489,2025

DEFENDANT BELOW/APPELLEE/CROSS APPELLANT'S
REPLY BRIEF IN SUPPORT OF CROSS APPEAL FROM THE
SUPERIOR COURT OF DELAWARE

YOUNG & MCNELIS

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Dated: 5/27/2026

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 I. WHETHER THE SUPERIOR COURT ERRED WHEN IT EXCLUDED EVIDENCE, IN A CASE WHERE THE PLAINTIFF'S RECKLESS CONDUCT WAS ALLEGED, OF THE PLAINTIFF'S SIX (6) PRIOR DUI CONVICTIONS, THE FACT THAT PLAINTIFF WAS OPERATING A MOTOR VEHICLE WITHOUT A LICENSE, AND THE REQUIREMENT OF AN IGNITION INTERLOCK DEVICE ON PLAINTIFF'S MOTOR VEHICLE. (xx)	
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STATEMENT OF FACTS

Defendant Below/Cross-Appellant incorporates by reference the Statement of Facts and procedural history set forth in their Answering Brief and Opening Brief on Cross-Appeal.

ARGUMENT I

The Plaintiff's reply to the Cross Appeal issue in this case not only fails to address the Moorehead v. State case cited in the Defendant's Opening Cross Appeal Brief, but simply ignores the true basis and relevance of the excluded evidence. The Plaintiff's multiple prior DUI convictions, the fact that he did not have a valid driver's license, and his evasion of the ignition interlock device on his car do not merely go to the negligence issues regarding the December 10, 2021 accident. Instead, as discussed in Defendant's Opening Brief, that evidence relates to the Plaintiff's state of mind and the recklessness allegations asserted by the defense.

The Plaintiff apparently wants this Court to focus only on the right of way at the intersection where the accident took place and ignore all of the context and necessary background regarding the jury's consideration of the Plaintiff's decisions and conduct. As discussed in the earlier briefing, the Plaintiff's recklessness was an entirely valid and supported element to this case. Precluding certain evidence which supported that defense and further demonstrated the Plaintiff's reckless decisions and "I don't care" attitude prevented the jury from viewing the case in its full context. This case did not simply involve a right of way issue. The Plaintiff's reckless conduct, in its full context, had to be considered. Because of the excluded evidence, the jury heard only some of the dangerous decisions Plaintiff Masarone made that day.

CONCLUSION

For the aforementioned reasons, should this Court order a new trial for any reason, the full scope of the Plaintiff's mindset, decision-making and background, should be part of the jury's consideration of the liability issues and the Plaintiff's reckless conduct.

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GERALD MASARONE,	)	
	)	Case No: 489,2025
Plaintiff Below/Appellant,	)	
Cross-Appellee,	)	
	)	
v.	)	
	)	Jury of 12 Demanded
SUSAN WELAN,	)	
	)	
Defendant Below/Appellee/	)	
Cross-Appellant.	)	

CERTIFICATE OF SERVICE

I hereby certify that Defendant Below/Appellee/Cross-Appellant's Reply

Brief in support of Cross Appeal was delivered electronically to:

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