

IN THE SMALL CLAIMS COURT FOR THE DISTRICT OF CAPE TOWN
HELD AT CAPE TOWN CASE NUMBER: 302/12

IN THE MATTER BETWEEN:

ABCD PLAINTIFF

AND

XYZ DEFENDANT

DEFENDANT'S COUNTER CLAIM

1. For the purposes of convenience, the parties are referred to as in convention.
2. Collision occurred on a two-lane traffic circle.
3. Defendant, in vehicle "A", correctly approached the traffic circle in the inside lane, at the same time that Plaintiff, in vehicle "B", incorrectly approached the circle in the outside lane.
4. Defendant proceeded to go straight through the traffic circle, to exit at 12 on the clock, and indicated her intention intention to exit the circle.
5. Plaintiff, intending to go around the circle, incorrectly remained in the outside lane and proceeded around the circle – colliding with the left side of Defendant's vehicle as she exited the circle.

Reasons for Defendant's Counter Claim:

6. Plaintiff was negligent in proceeding around the circle in the incorrect lane, as the left-hand lane, where he was, is intended only for traffic leaving the circle, whilst the right-hand circle, where defendant was, is intended for traffic proceeding out of the circle, or turning right.
7. These rules are stated on the Arrive Alive Website as per the below:
www.arrivealive.co.za
8. Defendant confirmed the traffic circle rules with the Traffic Department, who explained that a traffic circle needs to be viewed as an intersection – at an intersection, one would not turn right from the left lane, but from the right hand lane.
9. One can, however, proceed straight in both the left and right lanes.
10. The Traffic Department also confirmed (in writing) that Plaintiff made an illegal right turn, whereas Defendant was entitled to proceed straight.
11. The collision could have been avoided had Plaintiff adhered to the rules of the road.

WHEREFORE Defendant claims:

1.
 1. Payment of the sum of R4 900, in respect of the insurance excess that defendant had to pay for repairs to her vehicle.
 2. Interest thereon calculated at the current rate, and
 3. Alternative relief;

DATED AT CAPE TOWN ON THIS 1ST DAY OF DECEMBER 2010.