

**Supreme Court of the State of New York  
Appellate Division: Second Judicial Department**

D34958  
C/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - March 30, 2012

PETER B. SKELOS, J.P.  
ANITA R. FLORIO  
ARIEL E. BELEN  
SANDRA L. SGROI, JJ.

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2011-10879

DECISION & ORDER

Magdalena Castro, etc., respondent, v New York  
City Transit Authority, et al., appellants.

(Index No. 24506/09)

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Wallace D. Gossett, Brooklyn, N.Y. (Lawrence Heisler of counsel), for appellants.

Lipsig, Shapey, Manus & Moverman, P.C. (Pollack, Pollack, Isaac & De Cicco, New  
York, N.Y. [Brian J. Isaac and Jillian Rosen], of counsel), for respondent.

In an action to recover damages for personal injuries, the defendants appeal from an  
order of the Supreme Court, Queens County (Gavrin, J.), entered October 3, 2011, which granted  
the plaintiff's motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

The plaintiff pedestrian was crossing the street within a crosswalk with the traffic  
light and pedestrian crossing signal in her favor when she was struck on her left side by a bus  
operated by the defendant New York City Transit Authority (hereinafter the NYCTA) as it was  
making a right turn. The NYCTA acknowledges that the plaintiff was walking within the crosswalk  
and had the traffic and pedestrian signals in her favor at the time of the accident. The evidence  
submitted by the plaintiff established that, as a matter of law, the defendant driver violated the  
Traffic Rules and Regulations of the City of New York (34 RCNY) § 4-03(a)(1)(i) (*see Lariviere  
v New York City Tr. Auth.*, 82 AD3d 1165) and that the plaintiff was free from comparative fault (*see  
Klee v Americas Best Bottling Co., Inc.*, 60 AD3d 911; *Hoey v City of New York*, 28 AD3d 717).  
In opposition, the NYCTA failed to raise a triable issue of fact. Accordingly, the plaintiff's motion

May 15, 2012

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for summary judgment on the issue of liability was properly granted.

SKELOS, J.P., FLORIO, BELEN and SGROI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court