

**Karim v Wilson**

2026 NY Slip Op 31123(U)

March 23, 2026

Supreme Court, Kings County

Docket Number: Index No. 516190/2020

Judge: Anne J. Swern

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This opinion is uncorrected and not selected for official publication.

At an IAS Trial Term, Part 75 of the Supreme Court of the State of New York, Kings County, at the Courthouse located at 360 Adams Street, Brooklyn, New York on the 23<sup>rd</sup> day of March 2026

P R E S E N T: HON. ANNE J. SWERN, J.S.C.

JADA KARIM,

*Plaintiff(s),*

*-against-*

NADINE WILSON AND ASTORIA HOLDINGS LLC,

*Defendant(s).*

**DECISION & ORDER**

Index No.: 516190/2020

Calendar No.: 23 & 24

Motion Seq.: 7 & 8

Return Date: 12/11/2025

*Recitation of the following papers as required by CPLR 2219(a):*

**NYSCEF  
Papers Numbered**

007	Notice of Motion and Supporting Documents .....	121-123, 131
	Affirmation in Opposition and Supporting Documents .....	136-142
	Reply Affirmation and Supporting Documents .....	153
008	Notice of Motion and Supporting Documents .....	124-130
	Affirmation in Opposition and Supporting Documents .....	143-149
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*Upon the foregoing papers, the decision and order of the Court is as follows:*

This is an action for personal injuries sustained by plaintiff while a passenger in the van operated by defendant Nadine Wilson (“Wilson”) that was rented from defendant Astoria Holdings LLC (“Astoria”). The accident occurred on Interstate 40, near Memphis, Tennessee. The parties were traveling from Brooklyn, New York to Tennessee on a Youth Ministry trip. It is undisputed that Wilson was not the named individual on the rental agreement as either the renter or intended driver of the van. Another individual, Uriel Vassell, rented the van on behalf of their church to transport the members.

Defendant Wilson has moved for an order per CPLR § 3212 granting her summary judgment dismissing the complaint based on her affirmative defense that she was faced with an unforeseen emergency outside of her control that caused the accident (MS #7). Defendant has also moved for summary judgment dismissing the complaint based on 49 USC § 30106 a/k/a the “Graves Amendment” that insulates rental companies from vicariously liability for accidents involving their vehicles. (MS #8).

In opposition to Wilson’s motion, plaintiff argues that it is a question of fact whether Wilson was faced with an emergency outside of her control because she was speeding in the moments leading up to the crash. In support of this argument, plaintiff submits an expert report by an accident reconstructionist who analyzed the GPS data for the van. According to the GPS data, the average speed of the vehicle was 86.95 mph – the highest speed of the vehicle was 92 mph and the lowest was 66 mph leading up to the crash. This creates an issue of fact whether Wilson’s speed negates her claims of an emergency situation. The expert also attributes driver’s errors to the happening of the accident vis-à-vis the speed of the van.

In opposition to Astoria’s motion, plaintiff’s argument is two-fold. First, there is a question of fact whether the van was properly repaired and maintained, and second, whether the van was negligently entrusted to Wilson because it was foreseeable that another individual would drive the van. Plaintiff relies on the expert’s report in opposition to Astoria’s argument that the van was not properly repaired and maintained. In reply, Astoria argues that neither argument has merit because the van was not rented to Wilson and even if she did rent the van, there was nothing in her driving history that would support this claim. Next, Astoria presents evidence that the van was routinely inspected, and plaintiff’s expert does not opine that this was a possible

cause of the crash. Instead, he points to the possibility that the van was not equipped with “blind spot assist” technology in addition to Wilson’s speed and maneuvering of the vehicle.

Summary judgment may be granted only when no triable issue of fact exists (*Alvarez v Prospect Hospital*, 68 NY2d 320 [1986]). “A party moving for summary judgment must make a prima facie showing of entitlement to judgment as a matter of law, producing sufficient evidence to demonstrate the absence of any material issue of fact. However, a failure to demonstrate a prima facie entitlement to summary judgment motion, requires a denial of the motion regardless of the adequacy of the opposing papers” (*Ayotte v Gervasio*, 81 NY2d 1062, 1063 [1993], citing *Alvarez v Prospect Hospital*, 68 NY2d 324). “Once this showing has been made, the burden shifts to the nonmoving party to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact that require a trial for resolution” (*Giuffrida v Citibank*, 100 NY2d 72, 81 [2003] and *Alvarez v Prospect Hospital*, 68 NY2d 324).

The Court’s only role upon a motion for summary judgment is to identify the existence of triable issues, and not to determine the merits of any such issues (*Vega v Restani Construction Corp.*, 18 NY3d 499, 505 [2012]) or the credibility of the movant’s version of events (see *Xiang Fu He v Troon Management, Inc.*, 34 NY3d 167, 175 [2019] [internal citations omitted]). The Court must view the evidence in the light most favorable to the nonmoving party, affording them the benefit of all reasonable inferences that can be drawn from the evidence (see *Negri v Shop & Stop, Inc.*, 65 NY2d 625, 626 [1985]). The motion should be denied where the facts are in dispute, where different inferences may be drawn from the evidence, or where the credibility of the witnesses is in question (see *Cameron v City of Long Beach*, 297 AD2d 773, 774 [2d Dept. 2002]).

Wilson's motion is denied. Plaintiff, through the expert's report, established the existence of trial issues of fact concerning whether Wilson was faced with a true emergency and was unable to act in an otherwise reasonable manner. The question of whether Wilson was speeding and therefore contributed to the crash must be determined by a jury (*Pandey v Parikh*, 57 AD3d 634, 635-636 [2d Dept 2008] [The deposition testimony established that the movant's vehicle was traveling at a high rate of speed raised the inference that he/she was not faced with an emergency situation.]).

However, Astoria's motion is granted. Plaintiff failed to establish a question of fact as to the negligent maintenance of the vehicle or negligent entrustment to Wilson. The deposition testimony establishes that even if Astoria knew Wilson would be operating the vehicle, Wilson's driving history consisted of one red light ticket years before the accident. The testimony also established that Wilson did not experience any difficulty operating the vehicle before the crash.

The Court has considered the parties' remaining arguments and finds same to be without merit.

Accordingly, it is hereby

ORDERED that defendant Nadine Wilson's motion for summary judgment per CPLR § 3212 dismissing plaintiff's complaint is DENIED, and it is further

ORDERED that defendant Astoria Holdings LLC's motion for summary judgment per CPLR § 3212 dismissing plaintiff's complaint is GRANTED, and it is further

ORDERED that the clerk shall enter judgment accordingly.

This constitutes the decision and order of the Court.

ENTER:

A handwritten signature in blue ink, appearing to be 'AS', written over a horizontal line.

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**Hon. Anne J. Swern, J.S.C.**

**Dated: 3/23/2026**