

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

D57196
T/htr

_____AD3d_____

Submitted - October 2, 2018

JOHN M. LEVENTHAL, J.P.
CHERYL E. CHAMBERS
SANDRA L. SGROI
FRANCESCA E. CONNOLLY, JJ.

2016-12732

DECISION & ORDER

Abraham Fuentes, appellant, v Nassau Inter-County
Express, etc., et al., respondents.

(Index No. 604044/14)

Munawar & Andrews-Santillo, LLP, New York, NY (Larry I. Badash of counsel), for
appellant.

Harris Beach PLLC, Uniondale, NY (William J. Garry and Kadion D. Henry of
counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an
order of the Supreme Court, Nassau County (Jerome C. Murphy, J.), dated November 14, 2016. The
order granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The plaintiff allegedly was injured shortly after he boarded a bus operated and owned
by the defendants when the bus suddenly stopped, causing him to lose his balance and fall. The
Supreme Court granted the defendants' motion for summary judgment dismissing the complaint.
The plaintiff appeals.

In order to establish a prima facie case of negligence against a common carrier for
injuries sustained by a passenger when the vehicle comes to a stop, the plaintiff must establish that
the stop was unusual and violent (*see Urquhart v New York City Tr. Auth.*, 85 NY2d 828, 829-830).
“In seeking summary judgment dismissing the complaint, however, common carriers have the
burden of establishing, prima facie, that the stop was not unusual and violent” (*Alandette v New York
City Tr. Auth.*, 127 AD3d 896, 897).

November 7, 2018

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Here, the defendants established their prima facie entitlement to judgment as a matter of law by submitting the plaintiff's deposition testimony demonstrating that the stop of the bus was not unusual and violent (*see Bethune v MTA Long Is. Bus*, 138 AD3d 1052; *Dowdy v MTA-Long Is. Bus*, 123 AD3d 655). In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, we agree with the Supreme Court's granting of the defendants' motion for summary judgment dismissing the complaint.

LEVENTHAL, J.P., CHAMBERS, SGROI and CONNOLLY, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court