

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 25-00089

PRESENT: WHALEN, P.J., CURRAN, MONTOUR, SMITH, AND GREENWOOD, JJ.

LILIAN C., INDIVIDUALLY AND AS GUARDIAN
OF STEFANIE C., CLAIMANT-APPELLANT-RESPONDENT,

V

MEMORANDUM AND ORDER

THE STATE OF NEW YORK, DEFENDANT-RESPONDENT-APPELLANT.
(CLAIM NO. 127148.)

SMITH, SOVIK, KENDRICK & SUGNET, P.C., SYRACUSE (STEVEN W. WILLIAMS OF
COUNSEL), FOR CLAIMANT-APPELLANT-RESPONDENT.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (OWEN DEMUTH OF COUNSEL), FOR
DEFENDANT-RESPONDENT-APPELLANT.

Appeal and cross-appeal from an interlocutory judgment of the
Court of Claims (J. Scott Odorisi, J.), entered January 3, 2025. The
interlocutory judgment apportioned liability 20% to defendant.

It is hereby ORDERED that the interlocutory judgment so appealed
from is unanimously affirmed without costs.

Memorandum: Claimant commenced this action on behalf of herself
and her daughter seeking damages for injuries that they sustained as
passengers in a motor vehicle accident that occurred when the driver
of another vehicle (nonparty driver) failed to yield the right-of-way
and turned left in front of the vehicle that claimant and her daughter
were in. Following a bifurcated nonjury trial on liability, the Court
of Claims determined that defendant, State of New York (State), was
20% responsible and the nonparty driver was 80% responsible for the
happening of the accident. Claimant appeals, and the State cross-
appeals. We affirm.

The court concluded that the State failed to remedy a dangerous
intersection condition, but the primary fault for the accident was the
nonparty driver's failure to exercise enough caution under the
circumstances. Contrary to the contentions of both claimant and the
State, the court's apportionment of liability is supported by a fair
interpretation of the evidence (*see Destino v State of New York*, 203
AD3d 1598, 1599-1600 [4th Dept 2022]; *Johnson v State of New York*, 151
AD3d 1672, 1673-1674 [4th Dept 2017]). We have considered the

parties' remaining contentions and conclude that they are without merit.

Entered: March 27, 2026

Ann Dillon Flynn
Clerk of the Court