

Velez v Raz Taxi Corp.
2019 NY Slip Op 32833(U)
September 19, 2019
Supreme Court, Kings County
Docket Number: 512754/2018
Judge: Peter P. Sweeney
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Index No.: 512754/2018
Motion Date: 9-16-19
Mot. Cal. No.: 3

-----x
LUIS VELEZ,

Plaintiff,

-against-

DECISION/ORDER

RAZ TAXI CORP., KABIR MD NASRUL HAIDAR and
SAZZADUL SIDDIQUI

Defendant.
-----x

The following papers numbered 1 to 9 were read on these motions:

Papers:	Numbered:
Notice of Motion and Cross-Motion	
Affidavits/Affirmations/Exhibits/Memos of Law.....	1-2
Answering Affirmations/Affidavits/Exhibits/Memos of Law.....	3-6
Reply Affirmations/Affidavits/Exhibits/Memos of Law.....	6-9
Other.....	

Upon the foregoing papers, the motions are decided as follows:

In this action to recover damages for personal injuries arising out of a three car accident, the defendant, SAZZADUL SIDDIQUI, moves pursuant to CPLR § 3212 for an order awarding him summary judgment dismissing plaintiff's complaint insofar as asserted against him. The plaintiff, LUIS VELEZ, cross-moves pursuant to CPLR § 3212 for an order awarding him partial summary judgment on the issue of liability against defendants RAZ TAXI CORP. and SAZZADUL SIDDIQUI. The two motions are consolidated for disposition.

ms #02 }
ms #03 } xms

This action arises out of a three vehicle accident that occurred on January 7, 2018, in the right lane on the westbound side of the Grand Central Parkway. There is no disputed that at the time of the accident, the vehicle owned and operated by defendant Siddiqui (the first vehicle inline) was rear-ended by the vehicle owned and operated by plaintiff Velez (the second vehicle inline) which was rear-ended by the vehicle owned by RAZ Taxi Corp. and operated by Haidar (the third vehicle inline). The sequence of the impacts and the events leading up to the accident are in dispute.

Defendant Siddiqui testified at his deposition that he moved his vehicle into the right lane approximately 3 to 5 minutes prior to the accident and that he was traveling in the right lane for about a half a mile before he was rear-ended by the plaintiff's vehicle.

The plaintiff testified at his deposition that the Siddiqui vehicle moved into his lane of travel from the center lane before the accident. He testified as follows:

I was coming to a stop, and that's when I saw him come right in, and then he stopped. There was about a foot left, and then I pressed onto the brakes. And I stopped just before actually - well, I stopped. And I made sure that I actually didn't hit him. And then once I did stop, that where the cab behind me came in.

When asked if Siddiqui vehicle had its blinker on, he responded: "I didn't see no blinker." When asked to clarify his testimony concerning whether the Siddiqui had its blinker on, he responded: "I didn't see anything at all. He just moved in real quick." Notwithstanding the above testimony, plaintiff testified that he was able to bring his vehicle to a complete stop behind the Siddiqui vehicle and remained stopped for approximately 4-5 seconds at which time his vehicle was rear ended by the vehicle operated by defendant Haidar. He stated, however, that

to stop his vehicle, he had to apply soft to heavy pressure on the brake pedal. He maintains that as a result of the impact, his vehicle was pushed into the rear of the Siddiqui vehicle.

Defendant Haidar testified at his deposition that he saw plaintiff's vehicle rear-end the Siddiqui before his vehicle rear-ended plaintiff's vehicle.

Defendant Siddiqui's motion for summary judgment is denied as triable issues of fact exist as to whether defendant Siddiqui abruptly moved in to plaintiff's lane of travel, without signaling, just prior to the accident, thereby causing plaintiff to strike his vehicle in the rear. Although the plaintiff maintains that he was able to stop his vehicle before colliding into the rear of the vehicle, defendant Haidar testified that he saw plaintiff's vehicle strike the Siddiqui before he struck plaintiff's vehicle in the rear.

With regard to the plaintiff's cross-motion, the motion was untimely and plaintiff failed to make a showing of good cause for the delay in making the motion, as the excuse proffered by the plaintiff amounted to a perfunctory claim of law office failure (*see In re Hibbert*, 137 A.D.3d 786, 787, 25 N.Y.S.3d 893; *Brill v. City of New York*, 2 N.Y.3d 648, 652, 781 N.Y.S.2d 261, 814 N.E.2d 431; *Quinones v. Joan & Sanford I. Weill Med. Coll. & Graduate Sch. of Med. Sciences of Cornell Univ.*, 114 A.D.3d 472, 980 N.Y.S.2d 88). Even if the Court were to consider the motion, the motion would be denied. Defendant Haidar's testimony that the impact between his vehicle and the plaintiff's vehicle occurred

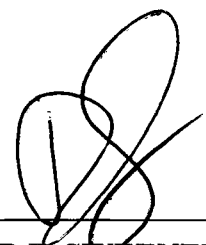
after the plaintiff's vehicle collided into the Siddiqui vehicle raised triable issues of fact as to the sequence of the collisions, whether he was at fault, and the proximate cause of the plaintiff's alleged injuries (*Gavrilova v. Stark*, 129 A.D.3d 907, 909, 11 N.Y.S.3d 656, 658, citing *Polanco-Espinal v. City of New York*, 84 A.D.3d 914, 921 N.Y.S.2d 862; *Vavoulis v. Adler*, 43 A.D.3d 1154, 842 N.Y.S.2d 526; *Thoman v. Rivera*, 16 A.D.3d 667, 792 N.Y.S.2d 558; *Hudson v. Cole*, 264 A.D.2d 439, 694 N.Y.S.2d 692; *Viggiano v. Camara*, 250 A.D.2d 836, 673 N.Y.S.2d 714; *Sanford v. Stillitano*, 241 A.D.2d 489, 660 N.Y.S.2d 67; *Omrami v. Socrates*, 227 A.D.2d 459, 642 N.Y.S.2d 932).

Accordingly, it is hereby

ORDERED that the motion and cross-motion are **DENIED**.

This constitutes the decision and order of the Court.

Dated: September 19, 2019



PETER P. SWEENEY, J.S.C.

HON. PETER P. SWEENEY, J.S.C



KINGS COUNTY CLERK
FILED

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