

Ayele v Valentine

2019 NY Slip Op 35052(U)

November 7, 2019

Supreme Court, Bronx County

Docket Number: Index No. 27934/2018E

Judge: John R. Higgitt

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX: I.A.S. PART 14

-----X
NEBI G. AYELE,

Plaintiff,

DECISION AND ORDER

- against -

Index No. 27934/2018E

ANDY A. VALENTINE, ANGEL OJEDA and CT LIMO
LLC.,

Defendants.
-----X

John R. Higgitt, J.

Upon defendant Valentine’s September 11, 2019 notice of motion and the affirmation, affidavit and exhibits submitted in support thereof; there being no opposition to the motion; and due deliberation; defendant Valentine’s motion for summary judgment dismissing the complaint as against him and all cross claims against him is granted.

This is a negligence action to recover damages for personal injuries that plaintiff allegedly sustained in a motor vehicle accident that took place on November 15, 2017. Defendant Valentine seeks summary judgment dismissing the complaint as against him and the cross claims against him on the ground that he is not liable for the accident. In support of his motion, defendant Valentine submits the pleadings, his affidavit and plaintiff’s affidavit.

Defendant Valentine averred that at the time of the accident he was traveling southbound on the I-678 Van Wyck Expressway. Defendant Valentine also averred that he had to come to a stop because of heavy traffic when the vehicle operated by defendant Ojeda and owned by defendant CT Limo LLC (“the Ojeda defendants”) struck the rear of the defendant Valentine’s vehicle.

Plaintiff averred that at the time of the accident she was a passenger in defendant Valentine's vehicle, which was stopped due to traffic ahead of it when the Ojeda defendants' vehicle struck the rear of defendant Valentine's vehicle.

"A rear-end collision with a stationary vehicle creates a prima facie case of negligence requiring judgment in favor of the stationary vehicle unless defendant proffers a non-negligent explanation for the failure to maintain a safe distance . . . A driver is expected to drive at a sufficiently safe speed and to maintain enough distance between himself [or herself] and cars ahead of him [or her] so as to avoid collisions with stopped vehicles, taking into account weather and road conditions" (*LaMasa v Bachman*, 56 AD3d 340, 340 [1st Dept 2008]). A rear-end collision establishes a prima facie case of negligence against the rearmost driver in a chain confronted with a stopped or stopping vehicle (*see Cabrera v Rodriguez*, 72 AD3d 553 [1st Dept 2010]), and a presumption of non-negligence of the driver of the lead vehicle in a rear-end collision (*see Soto-Marroquin v Mellet*, 63 AD3d 449 [1st Dept 2009]).

Defendant Valentine made a prima facie showing that he was not liable for the accident as his vehicle was struck in the rear by the Ojeda defendants' vehicle.

The non-moving parties did not oppose defendant Valentine's motion and thus failed to raise a triable issue of fact in opposition to defendant Valentine's prima facie showing.

The court notes that Justice Simpson granted summary judgment to plaintiff on the issue of defendants Ojeda and Ct Limo LLC's liability (*see* NYSCEF doc. no. 29)

Accordingly, it is


ORDERED, that defendant Valentine's motion for summary judgment dismissing the complaint as against him and all cross claims against him is granted; and it is further

ORDERED, that the Clerk of the Court shall enter judgment in favor of defendant Valentine dismissing the complaint as against him and all cross claims against him.

The parties are reminded of the January 17, 2020 compliance conference before the undersigned.

This constitutes the decision and order of the court.

Dated: November 7, 2019



John R. Hight, A.J.S.C.