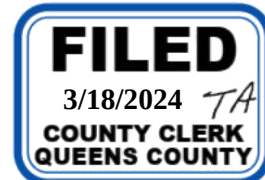


Valencia v City of New York
2024 NY Slip Op 35338(U)
March 18, 2024
Supreme Court, Queens County
Docket Number: Index No. 721280/2021
Judge: Kevin J. Kerrigan
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE KEVIN J. KERRIGAN Part 10
Justice



-----X
Maritza Valencia and Santiago Urbano,
Plaintiffs,

Index
Number: 721280/21

- against -

Motion
Date: 3/11/24

The City of New York, The New York City
Department of Housing Preservation
and Development, New York City Housing
Authority, Rabiul Haque and Marco Urbano,
Defendants.

Motion Seq. No.: 4

-----X
Marco Urbano,

Plaintiff,

Action No. 2:

- against -

Index
Number: 724024/21

The City of New York, The New York City
Department of Housing Preservation and
Development, New York City Housing Authority
and Rabiul Haque,
Defendants.

Defendants.

-----X
The following papers numbered E48-E58, E60-E71 & E73-E76
read on this motion by Defendant, Marco Urbano for summary
judgment; and cross-motion by Plaintiffs for summary judgment and
to set the matter down for an inquest on damages.

Papers
Numbered

Notice of Motion-Affirmation-Exhibits.....	E48-58
Notice of Cross-Motion-Affirmation-Exhibits.....	E60-71
Affirmation in Opposition.....	E73
Affirmation in Opposition.....	E74
Reply.....	E75-76

Upon the foregoing papers it is ordered that the motion is decided as follows:

Motion by Defendant, Marco Urbano for summary judgment is granted, there appearing no substantive opposition. Cross-motion by Plaintiffs, Maritza Valencia and Santiago Urbano for summary judgment is granted, there appearing no substantive opposition. The branch of the motion to set the matter down for an inquest on damages is denied.

Plaintiffs allegedly sustained injuries arising from a motor vehicle accident which occurred on Astoria Boulevard near its intersection with 80th Street in Queens County on September 25, 2020. On the date of incident, Defendant Marco Urbano was the owner and operator of a 2015 Mazda. Plaintiffs Maritza Valencia and Santiago Urbano are the respect wife and son of Marco Urbano and were passengers of his vehicle on the date of incident. Defendant Rebiul Haque was the operator of a 2007 Toyota registered to the Defendant, New York City Housing Authority (NYCHA). While driving through the intersection at the aforementioned location pursuant to a green light, Haque allegedly went through a red light and struck Marco Urbano's vehicle.

Marco Urbano testified at his deposition that he was the operator of a 2017 Mazda on the date of incident. He had picked up his son, Santiago Urbano, and was traveling home on Astoria Boulevard at its intersection with the Grand Central Parkway. The intersection is controlled by a traffic control device, and the traffic control device governing the subject intersection was green in his favor. He entered the intersection in the middle lane traveling approximately 25 to 30 miles per hour. Upon entering the intersection, he felt a heavy impact.

Plaintiff, Maritza Valencia similarly testified that she was in the front passenger seat of Marco Urbano's vehicle, and that the traffic control device governing the subject intersection was green at the time of impact.

Plaintiff Santiago Urbano similarly testified that he was a rear seat passenger in his father, Marco Urbano's vehicle, and that the traffic control device governing the subject intersection was green at the time of impact.

Defendant Haque testified at his deposition that he was the operator of a 2007 Toyota registered to NYCHA. He was working in

his capacity as a housing inspector for NYCHA on the date of incident. Haque was crossing Astoria Boulevard, traveling to the ramp which leads to the Grand Central Parkway at the time of the accident. The intersection was controlled by a traffic light. When asked if he observed the color of the traffic light, he did not remember. He did not believe that the other vehicle involved traveled through a red light.

The police report annexed to the motion provides that Marco Urbano was traveling straight through a green light when he was struck by Haque's vehicle. Haque stated that he accidentally went through a red light and struck Marco Urbano's vehicle.

Plaintiffs and Defendant Marco Urbano have thus established their prima facie entitlement to summary judgment as a matter of law by proffering uncontested evidence that Haque's movement was governed by a traffic control device, that the traffic control device governing the subject intersection was green in Marco Urbano's favor, that Haque failed to yield the right of way and that Marco Urbano's vehicle was struck by Haque's vehicle after he entered the intersection (see, Diasparra v. Smith, 253 A.D.2d 840 [2d Dept. 1998]; Rumanov v. Greenblatt, 251 A.D.2d 566 [2d Dept. 1998]; Salenius v. Lisbon, 217 A.D.2d 692 [2d Dept. 1995]). "The driver who has a green light has the right to assume that the light is red for cross traffic and that other drivers will stop for the red light"(PJI 2:79, citing Shea v. Judson, 283 N.Y.393 [1940]). Defendant Urbano was entitled to rely upon Haque to obey the traffic rules which required him to yield (see Batal v. Associated Universities, Inc., 293 A.D.2d 558 [2d Dept. 2002]).

The municipal Defendants take no position with regard to the motion and cross-motion for summary judgment on the issue of fault. Defendants solely seek to specify that issue of damages and causation as it relates to damages must await jury determination. The Court agrees.

Accordingly, in light of the forgoing, the motion by Marco Urbano for summary judgment, dismissing the complaint and any cross-claims against him is granted. The cross-motion by Plaintiffs for summary judgment on the issue of liability is granted. Notwithstanding, the present circumstances do not require an inquest since the Defendants have appeared in the action. Rather, a trial to determine the damages necessary is required. The Note of Issue has not yet been filed in this matter. Upon its filing, the matter will be set down for a trial.

Serve a copy of this order with notice of entry without undue delay.

Dated: March 18, 2024



KEVIN J. KERRIGAN, J.S.C.

