

**Vinson v Boljevic**

2025 NY Slip Op 30706(U)

February 24, 2025

Supreme Court, New York County

Docket Number: Index No. 160146/2023

Judge: James G. Clynes

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  
NEW YORK COUNTY**

**PRESENT: HON. JAMES G. CLYNES PART 22**

*Justice*

-----X

KENDRA VINSON,

Plaintiff,

- v -

ENVER BOLJEVIC, AIDA BOLJEVIC, and ALEXANDRA  
PAPAMICHAEL

Defendants.

-----X

INDEX NO. 160146/2023

MOTION DATE 05/06/2024

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34

were read on this motion to/for JUDGMENT - SUMMARY.

Upon the foregoing documents, it is ordered that the motion by defendants Enver Boljevic<sup>1</sup> and Aida Boljevic, pursuant to CPLR 3212 for an Order granting summary judgment in their favor and dismissing the Complaint and all cross-claims against her on the grounds that there are no material issues of law or fact relating to the issue of liability is decided as follows:

Plaintiff seeks recovery for personal injury sustained as a result of a May 21, 2023 rear-end chain collision motor vehicle accident involving four vehicles: the first vehicle operated by a nonparty, the second vehicle operated by plaintiff, the third vehicle owned by defendant Enver Boljevic and operated by defendant Aida Boljevic, and the fourth vehicle operated by defendant Alexandra Papamichael. There is no dispute about the order in which the four vehicles were traveling at the time of the accident.

Movants' submission includes an accident report identifying the drivers and vehicles involved in the accident and the affirmation of movant defendant driver Aida Boljevic in which she affirms that on the date of the accident she was the permissive operator of a vehicle owned by

<sup>1</sup> During the pendency of this motion, by Decision and Order dated September 17, 2024, the court granted plaintiff's motion to fully consolidate this action (Action #1) and the related action *Kendra Vinson v Enver Boljevic, Aida Boljevic and Alexandra Papamichael*, pending in this court under Index Number 155742/2024 (Action #2) and the actions were consolidated under Index Number 160146/2023, resulting in the addition of defendant owner Enver Boljevic to this action.

her father Enver Boljevic, that she observed vehicles ahead of her in her lane of traffic slowing, that she applied her brakes to slow her vehicle down, that as her vehicle was slowing down she felt an impact to the rear of her vehicle causing her vehicle to be propelled forward into the vehicle directly in front of her vehicle, that her vehicle did not make contact with the vehicle ahead of her vehicle until after her vehicle was impacted in the rear, and that she has since learned that the vehicle that her vehicle was pushed into was a vehicle operated by plaintiff, established prima facie negligence against defendant Papamichael for the rear-end collision between the rear of the Boljevic vehicle and the front of the Papamichael vehicle and provides a non-negligent explanation for the rear-end collision between the front of the Boljevic vehicle and the rear of plaintiff's vehicle.

Plaintiff's opposition includes plaintiff's examination under oath testimony in which she testified that she was travelling to New York from New Jersey on the George Washington Bridge, that as soon as she stopped, three seconds later, she was struck in the rear by another vehicle and rammed into the vehicle in front of her and that there was just one vehicle in front of her and then there was the one that was behind her, established prima facie negligence by the Boljevic vehicle for the rear-end collision between the front of the Boljevic vehicle and the rear of plaintiff's vehicle and provides a non-negligent explanation for the rear-end collision between the front of plaintiff's vehicle and the rear of the vehicle in front of plaintiff.

Defendant Papamichael's opposition includes Papamichael's affidavit in which she avers that she was operating her vehicle, that her vehicle was the "fourth vehicle in the collision chain," that she observed the car directly in front of her (the third vehicle) come onto contact with the car in front of it (the second vehicle) and push the second vehicle into the one ahead of it (the first vehicle), that after the accident she learned that the third vehicle was operated by Boljevic and that the second vehicle was operated by plaintiff, and that Papamichael was unable to avoid the unexpected hazard created by the third and second vehicles directly in front of her as she was left with no time to react.

It is well settled that "[w]hen approaching another vehicle from behind, drivers are required to maintain a reasonably safe rate of speed, maintain control over the vehicle, and use reasonable care to avoid a collision, by, among other things, including maintaining a safe distance" (*Passos v*

*MTA Bus Co.*, 129 AD3d 481, 481 [1st Dept 2015], citing Vehicle and Traffic Law § 1129 [a]). “The law is well established that a rear-end collision with a stopped vehicle, or with a vehicle that is coming to a stop, creates a prima facie case of negligence by the operator of the rear vehicle unless the operator proffers an adequate nonnegligent explanation for the accident” (*Kalair v Fajerman*, 202 AD3d 625, 626 [1st Dept 2022]). The rule applies “when the front vehicle stops suddenly in slow-moving traffic, even if the sudden stop is repetitive, when the front vehicle, although in stop-and-go traffic, stopped while crossing an intersection, and when the front car stopped after having changed lanes” (*Johnson v Phillips*, 261 AD2d 269, 271 [1st Dept 1999] [citations omitted]). The rule also applies to multi-car, rear end collisions where the presumption of liability rests with the rearmost driver (*Cabrera v Thomas*, 193 AD3d 406, 407 [1st Dept 2021]). Here, the Boljevic defendants have demonstrated their prima facie entitlement to summary judgment (*Cabrera*, 193 AD3d at 407; *Butler v Petrova*, 116 AD3d 580, 580 [1st Dept 2014]); *Chang v Rodriguez*, 57 AD3d 295, 295 [1st Dept 2008]). Aida Boljevic’s un rebutted affirmation, in which she affirms that she was the permissive operator of the vehicle owned by Enver Boljevic and that she was slowing in traffic when her vehicle was rear-ended by the rear-most Pampichael vehicle, that as a result of the rear-end collision between the Pampichael vehicle and the Boljevic vehicle, the Boljevic vehicle was pushed forward into the rear of the Plaintiff’s vehicle, established that the Boljevic defendants are free from negligence in this motor vehicle accident, and there are no triable issues of fact as to the liability of the Boljevic defendants for the subject accident.

Rear-end collisions with stopped or stopping vehicles create a prima facie case of negligence against the rear vehicle driver unless an adequate nonnegligent explanation for the accident is given (*Kalair v Fajerman*, 202 AD3d 625 [1st Dept 2022]). In a chain-reaction collision, responsibility presumptively rests with the rearmost driver (*Cabrera v Thomas*, 193 AD3d 406 [1st Dept 2021]). “A defendant moving for summary judgment in a negligence action has the burden of establishing, prima facie, that he or she was not at fault in the happening of the subject accident” (*Leak v Hybrid Cars, Ltd.*, 132 AD3d 958 [2d Dept 2015]). In chain-collision accidents, the operator of the middle vehicle may establish prima facie entitlement to summary judgment by demonstrating that the middle vehicle was struck from behind by the rear vehicle and propelled into the lead vehicle (*Bardizbanian v Bhuiyan*, 181 AD3d 772 [2d Dept 2020]).

The submissions of plaintiff and defendant Papmichael do not raise a material issue of fact sufficient to preclude a determination of summary judgment on liability in favor of the Boljevic defendants and dismissal of the Complaint and cross-claims against them. Plaintiff's testimony that she was rear-ended by the vehicle behind her (the Boljevic vehicle) and pushed into the vehicle in front of her is consistent with the undisputed affirmation of Aida Boljevic. Papamichael's affidavit, because it does not specifically deny Papamichael's vehicle rear-ended the Boljevic vehicle and pushed it forward into plaintiff's vehicle, does not provide a non-negligent explanation for the rear-end collision between Papamichael's vehicle and the Boljevic vehicle and therefore fails to raise an issue of fact sufficient to preclude a determination of summary judgment on liability in favor of the Boljevic defendants and dismissal of the complaint and cross-claims against them.

There is no dispute that the plaintiff's vehicle was stopped when it was rear-ended by the Boljevic vehicle and pushed forward into the rear of the vehicle in front of plaintiff's vehicle. There is no dispute that the Boljevic vehicle was slowing behind the plaintiff's vehicle when it was rear-ended by the Papamichael vehicle and pushed forward into the rear of the Plaintiff's vehicle. The motion is granted. Accordingly, it is

ORDERED that the motion for summary judgment and dismissal of the complaint and cross-claims against defendants Enver Boljevic and Aida Boljevic is granted and the complaint and cross-claims against them are dismissed as against said defendants, and the Clerk is directed to enter judgment accordingly in favor of said defendants; and it is further

ORDERED that the action is severed and continued against the remaining defendant; and it is further

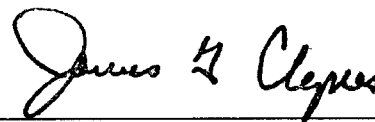
ORDERED that the caption be amended to reflect the dismissal and that all future papers filed with the court bear the amended caption; and it is further

ORDERED that counsel for the moving parties shall serve a copy of this order with notice of entry upon all parties and upon the Clerk of the Court and the Clerk of the General Clerk's Office, who are directed to mark the court's records to reflect the change in the caption herein; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on*

*Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website).

This constitutes the Decision and Order of the Court.



JAMES G. CLYNES, J.S.C.

2/24/2025

DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE