

Joseph v Blake

2025 NY Slip Op 34621(U)

November 28, 2025

Supreme Court, Kings County

Docket Number: Index No. 500618/19

Judge: Wayne P. Saitta

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This opinion is uncorrected and not selected for official publication.

At an IAS Term, Part 29 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 28th day of November, 2025.

P R E S E N T:

HON. WAYNE P. SAITTA,
Justice.
-----X

GOUELINE JOSEPH,
Plaintiff,

-against-

BRANDON BLAKE,
MAN ZHANG,
UBER TECHNOLOGIES, INC.,
and UBER U.S.A., LLC,
Defendants.
-----X

DECISION/ORDER
Index No. 500618/19
Mot. Seq. No. 9

The following e-filed papers read herein:

NYSCEF Doc. Nos.:

- Notice of Motion, Affirmations, and Exhibits Annexed _____ 223-232
- Affirmation in Opposition and Exhibits Annexed _____ 234-235
- Reply Affirmation and Exhibits Annexed _____ 236-237

In this action to recover damages for personal injuries, defendants Uber Technologies, Inc. and Uber USA, LLC (incorrectly sued herein as Uber U.S.A., LLC) (collectively, “Uber”) jointly moved for leave, pursuant to CPLR 2221 (d), to reargue their pre-Note of Issue motion for summary judgment dismissing plaintiff’s claims and co-defendants’ cross-claims against it and, upon reargument, granting their motion and vacating the Court’s decision/order, dated June 17, 2025, which denied the prior motion (the “prior order”). Plaintiff opposed. On November 19, 2025, the Court heard oral argument and reserved decision on Uber’s motion for leave to reargue.

In the prior order, the Court held, in relevant part, that:

“Uber failed to establish, prima facie, that [an Uber driver, defendant] Zhang was an independent contractor at the time of the accident. Zhang’s pretrial testimony . . . reflected his understanding that Uber controlled the methods and means of his work; namely, that Zhang (in his words) ‘just follow[ed] whatever Uber told [him].’ Further, O’Keefe’s pretrial testimony . . . was inadequate to support Uber’s prima facie case for three major reasons: (1) she was working in a compliance-type position for the Chicago area in Uber’s local office, whereas the New York City [area] was (in her words) “unique” and “a rather large market place”; (2) she was not involved with the technological aspects (*i.e.*, the substance) of Uber’s operations; and (3) her pretrial testimony, taken as a whole, was not probative on the true relationship between Uber’s New York City operations and its drivers because her testimony was replete with generalities and unsupported conclusions, as well as hedged about by qualifications further limiting its applicability to Uber’s New York City operations in 2018.”

(Prior Order, pages 10-11).¹

In the prior order, the Court found that:

“Uber’s recitation of several motion court-level dismissals as a defendant from personal injury cases involving its drivers [was] neither controlling nor persuasive. Ample appellate court precedent warrant[ed] denial of Uber’s motion without the sufficiency of plaintiff’s opposition (*see Soares v Rahmatulloev*, 234 AD3d 644, 645 [1st Dept 2025]; *Brielmeier [v Liel]*, 226 AD3d [955,] 957 [2d Dept 2024]; *Fernandez [v Conklin]*, 189 AD3d [784,] 785 [2d Dept 2020]; *Uy v A. Hussein*, 186 AD3d 1567, 1570 [2d Dept 2020]; *Rivera [v Fenix Car Serv. Corp.]*, 81 AD3d [622,] 623 [2d Dept 2011]).”

(Prior Order, page 11).

On reargument, Uber failed to show that the Court overlooked or misapprehended any matters of fact or law in determining the prior motion (*see CPLR 2221 [d]; Oparaji v Yablon*, 159 AD3d 539, 540 [1st Dept 2018], *lv dismissed in part, denied in part* 32 NY3d 1142

¹ “When deposed in December 2024, O’Keefe was a senior manager in Uber’s Department of City Operations in the Chicago office, with the Chicago office being only one of Uber’s five, US-based offices which included New York’s office” (Prior Order, page 5, footnote 14).

[2019], *rearg denied* 33 NY3d 1008 [2019]). Not one of the appellate decisions cited by Uber in ¶ 5 of its supporting affirmation involved a ride-sharing platform (*see Bynog v Cipriani*, 1 NY3d 193 [2003] [professional banquet waiters]; *Barak v Chen*, 87 AD3d 955 [2d Dept 2011] [a radio car – Carmel]; *Chaouni v Ali*, 105 AD3d 424 [1st Dept 2013] [radio car – Dial 7]); *Alves v Petik*, 136 AD3d 426 [1st Dept 2016] [a car-dispatch company]; *Zeng Ji Liu v Bathily*, 145 AD3d 558 [1st Dept 2016] [the lessor of a taxi medallion]).

Conversely, the prior order relied on (among other appellate precedent) *Soares v Rahmatulloev*, 234 AD3d 644 (1st Dept 2025), and *Uy v A. Hussein*, 186 AD3d 1567 (2d Dept 2020), both of which involved not only a ride-sharing platform (Uber in each case), but which were more recent than the potentially outdated (at least, in the context of the ride-sharing platforms) decisions of 9 to 14 years ago in the areas of radio cars and car services (*see Barak v Chen*, 87 AD3d 955 [2d Dept 2011], *Chaouni v Ali*, 105 AD3d 424 [1st Dept 2013], and *Alves v Petik*, 136 AD3d 426 [1st Dept 2016]).

The Court's prior order is far from an aberration which Uber's counsel suggests by its submission on reargument of numerous motion court-level rulings in its favor. Those rulings are not dispositive. In addition to a recent unanimous jury verdict against Uber at the trial level in *Depass v Uber Technologies, Inc. and Mohammad Hoque*, Sup Ct, Kings County, July 25, 2025, Carolyn Mazzei Genovesi, J., index No. 500677/19 (NYSCEF Doc No. 235), it is worth noting that several motion courts squarely held against Uber in the past (*see Salaam v Bowman*, 2022 NY Slip Op 33290[U] [Sup Ct, NY County 2022]; *Singleton v American United Transp. Inc.*, 2022 WL 17732992 [Sup Ct, Bronx County 2022]).

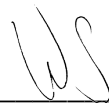
Taking a step back brings a broader picture into focus. At first, courts were summarily absolving Uber from liability for car crashes of its app-using passengers. In recent years, however, the judicial pendulum has swung in the opposite direction, as demonstrated by *Soares v Rahmatulloev*, 234 AD3d 644 (1st Dept 2025), and *Uy v A. Hussein*, 186 AD3d 1567 (2d Dept 2020), both of which found triable issues of fact as to whether Uber was liable in respondeat superior for its drivers' accidents. Additionally, the judicial pendulum has moved further to encompass Uber's direct tort liability on the driver side of its ride-sharing platform. In a tragic case involving the murder of an Uber driver by two Uber riders in a failed carjacking attempt, the United States Court of Appeals for the Ninth Circuit recently "conclude[d] that, under Washington law, a rideshare company owe[d] a *duty to its drivers* to use reasonable care in matching them with riders" (*Drammeh v Uber Technologies, Inc.*, 2024 WL 4003548, *1 [9th Cir, Aug. 30, 2024] [emphasis added], *cert denied* 2025 WL 2823717 [US Sup Ct, Oct. 5, 2025]).

The Court has considered the parties' remaining contentions and found them either unavailing, or adequately addressed (by way of detailed factual recitations) in the prior order.

WHEREFORE, it is hereby ORDERED that Uber's motion for leave to reargue is denied in the Court's discretion.

This constitutes the decision/order of the Court.

ENTER,



J. S. C.