

Estrella v Samuels

2025 NY Slip Op 35180(U)

April 2, 2025

Supreme Court, Bronx County

Docket Number: Index No. 34966/2019E

Judge: Patsy Gouldborne

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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX, PART 13**

-----X
TANIA M. ESTRELLA and LUISA DELAROSA,

Index No. 34966/2019E

Plaintiff,

-against-

Hon. PATSY GOULDBORNE

Justice Supreme Court

JENNIFER M. SAMUELS, CHAD S. MARSH and
PAUL E. EADY,

Defendants.
-----X

The following were read on this motion (Seq. 2) for **SUMMARY JUDGMENT ON LIABILITY** submitted on **December 20, 2023**.

Notice of Motion - Exhibits and Affidavits	NYSCEF No(s). 46-60
Answering Affidavit and Exhibits	NYSCEF No(s). 61-62
Reply Affidavit	NYSCEF No(s). 73

Upon the foregoing papers, the Defendant, Paul Eady, moves, pursuant to CPLR 3212 for an order granting summary judgment on the issue of liability, dismissing Plaintiff’s complaint against him; dismissing the Co-Defendants crossclaims and for such other relief as this Court deems just and proper. After due deliberation, the motion is decided in accordance herewith.

This action for personal injury arises from a three-car motor vehicle accident that occurred on November 18, 2018, on the Henry Hudson Parkway, near West 139th Street, in the County and State of New York. In support of this motion, Defendant Eady submits, inter alia, the pleadings, his deposition transcript along with Tania Estrella, Luisa Delarosa¹, and Chad S. Marsh’s deposition transcripts, an uncertified police accident report and an attorney’s affirmation.²

Plaintiff testified to bright and dry conditions on the day of the accident. [Estrella EBT at 22-23]. Plaintiff testified that accident occurred at the entrance to the Henry Hudson Parkway where she was the first car in line. [Tr. at 27]. Plaintiff testified that she was stopped before the moment of impact. [Tr at 28]. Plaintiff testified that she felt and heard the impact to the rear of her vehicle. [Tr at 25]. Plaintiff testified that she saw the Eady vehicle in her rearview mirror before the collision. Plaintiff testified that she saw two vehicles after the second collision occurred. [Tr at 27-34]. Plaintiff testified that the vehicle directly behind her had damage to the front and back.

¹ The Court cannot consider the police accident report as competent evidence in deciding this motion as it is uncertified. *Coleman v. Maclas*, 61 AD3d 569, (1st Dept. 2009).

² On March 20, 2024, Plaintiff Luisa Delarosa discontinued her cause of action against the Defendants Jennifer M. Samuels and Chad S. Marsh, only.

[Tr at 33]. Plaintiff testified that she spoke to the driver of the middle vehicle who apologized and stated he struck her vehicle because the third vehicle crashed into him. [Tr at 40]. At her continued deposition, Plaintiff testified that her sister Plaintiff Delarosa was a front-seat passenger in her vehicle. [Estrella 2nd EBT at 9-10].

Plaintiff Delarosa testified she was traveling as a passenger with her sister, Co-Plaintiff Estrella. [Tr at 31]. Delarosa testified that the vehicle was stopped on the entrance ramp to the Henry Hudson Parkway while waiting to merge. [Tr at 35-36]. Delarosa testified that the vehicle was struck in the rear while stopped on the entrance ramp. [Tr at 39]. Delarosa testified to feeling one impact to the back of Estrella's vehicle. [Tr at 42]. Delarosa testified that the subject accident involved three vehicles. [Tr at 41].

Defendant Eady testified that the accident occurred on the entrance ramp to the Henry Hudson Parkway. [Eady EBT at 11]. Eady testified that the car ahead of him was stopped at the parkway's entry point. [Tr at 12]. Eady testified that he stopped about a car-length behind the first vehicle. [Tr at 14]. Eady testified that his vehicle was hit from behind and he described the impact as "heavy." [Tr at 16, 19]. Eady testified that he was stopped behind the Plaintiff's vehicle stopped as she waited to merge onto the highway; while stopped and waiting for the Plaintiff's vehicle to proceed, Marsh's vehicle struck him in the rear. [Tr at 17]. Eady testified that before the impact he heard the screeching of Marsh's brakes and prepared for impact. [Tr at 17, 25] Eady testified that the ramp could not facilitate two vehicles merging side by side onto the highway, and he had to wait for the Plaintiff's vehicle to proceed before merging into traffic. [Tr at 24]. Eady testified that he could not see the impact with the Plaintiff's vehicle because the of the impact from the Marsh vehicle. [Tr at 31]. Eady testified that he felt as if he was hit multiple times. [Tr at 31]. Eady testified that there was some damage to the front of his vehicle. [Tr at 44].

Defendant Chad S. Marsh testified that on the day of the accident he drove the subject vehicle and said vehicle was owned by his mother, Co-Defendant Jennifer Samuels. [Tr at 13]. Marsh testified that the accident occurred while he was on the entrance ramp to the Henry Hudson Parkway. [Tr at 14]. Marsh testified that the front of his vehicle collided with the back of the vehicle in front of him. [Tr at 15]. Marsh testified that he applied his brakes when he saw a car stopped in front of him. [Tr at 16]. Marsh testified that he was one to two car lengths away from the Eady vehicle when he noticed that it was stopped. [Tr at 17]. Marsh testified that the impact occurred as he applied his brakes. [Tr at 18].

In opposition, Defendants Samuels and Marsh submit an attorney's affirmation. Defendants' Counsel argues that Estrella's testimony that she felt two impacts raises an issue of fact. Counsel argues that the police accident report notes Eady's vehicle as a contributing factor for following too closely. Counsel argues that rear-end collisions do not automatically impute liability on the rear-most driver. Counsel that the motion should be denied as Defendant Eady has failed to meet his burden, establish his freedom from liability, and eliminate all questions of fact.

In reply, Defendant Eady's Counsel argues the testimony presented herein acknowledge how the chain-collision occurred. Counsel renews his argument in favor of summary judgment as the Defendants Samuels and Marsh have failed to raise an issue of fact.

Discussion

The proponent of a summary judgment motion has the burden of submitting evidence in admissible form demonstrating the absence of any triable issues of fact and establishing entitlement to judgment as a matter of law. Once this showing has been made, the burden shifts to the non-moving party to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact. *Giuffrida v. Citibank Corp.*, 100 NY2d 72 [2003]; see also *Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320 [1986]. There can be more than one proximate cause of an accident, and "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" *Yang v Sanacore*, 202 AD3d 1120, [2nd Dept 2022].

A rear-end collision with a *stopped or stopping* vehicle establishes a prima facie case of negligence on the part of the driver of the rear vehicle and imposes a duty on the part of that driver to "come forward with an adequate nonnegligent explanation for the accident." *Bajrami v Twinkle Cab Corp.*, 147 AD3d 649 [1st Dept. 2017]. Moreover, 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, 13 NYS3d 4 [1st Dept 2015], citing Vehicle and Traffic Law § 1129 [a]). This rule imposes on drivers a "duty to be aware of the traffic conditions, including vehicle stoppages" (*Johnson v Phillips*, 261 AD2d 269, 271, 690 NYS2d 545 [1st Dept 2000]; *Mitchell v Gonzalez*, 269 AD2d 250, 251, 703 NYS2d 124 [1st Dept 2000] "[a] driver is expected to drive at a sufficiently safe speed and to maintain enough distance between himself and cars ahead of him so as to avoid collisions with stopped vehicles, taking into account the weather and road conditions").

In a chain-reaction collision, responsibility presumptively rests with the rearmost driver. *see Chang v. Rodriguez*, 57 AD3d 295, [1st Dept. 2008]. Moreover, 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, 13 NYS3d 4 [1st Dept 2015], citing Vehicle and Traffic Law § 1129 [a]). This rule imposes on a drivers "duty to be aware of the traffic conditions, including vehicle stoppages" (*Johnson v Phillips*, 261 AD2d 269, 271, 690 NYS2d 545 [1st Dept 2000]; *Mitchell v Gonzalez*, 269 AD2d 250, 251, 703 N.Y.S.2d 124 [1st Dept 2000] "[a] driver is expected to drive at a sufficiently safe speed and to

maintain enough distance between himself and cars ahead of him so as to avoid collisions with stopped vehicles, taking into account the weather and road conditions").

Here, the testimony demonstrates that the Plaintiffs' vehicle was the first car in the chain, it was stopped on the entrance ramp, waiting to merge onto the Henry Hudson Parkway, followed by the Eady vehicle which stopped to wait for the Plaintiff's vehicle to merge. Defendant Marsh's testimony establishes that his vehicle was the last vehicle. Marsh's vehicle caused the chain-collision when he struck the Eady's vehicle, forcing Eady's vehicle into the rear of the Plaintiffs' vehicle. As the middle car in the chain, Defendant Eady has demonstrated his *prima facie* entitlement to summary judgment on the issue of liability. Furthermore, the Defendants Samuels and Marsh have not presented a non-negligent explanation for the accident and have failed to raise a triable issue of fact or non-negligent explanation for the accident.

Accordingly, it is hereby,

ORDERED, that Defendant Paul E. Eady's motion for partial summary judgment on the issue of liability, is **GRANTED**; and the Plaintiffs' complaint against Paul E. Eady, only, is hereby dismissed; and it is further

ORDERED, that the crossclaims of Co-Defendants Jennifer Samuels and Chad S. Marsh are hereby dismissed, as to Paul E. Eady, only; and it is further

ORDERED, that the Clerk shall mark the motion (*Seq.#2*) disposed in all court records.

This constitutes the decision and order of the Court.

Dated: April 2, 2025


HON. PATSY GOULDBORNE, J.S.C.

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- 1. CHECK ONE..... CASE DISPOSED IN ITS ENTIRETY **CASE STILL ACTIVE**
 - 2. MOTION IS..... GRANTED DENIED GRANTED IN PART OTHER
 - 3. CHECK IF APPROPRIATE..... SETTLE ORDER SUBMIT ORDER SCHEDULE APPEARANCE
 FIDUCIARY APPOINTMENT REFEREE APPOINTMENT