Sattaur v Parris
2025 NY Slip Op 35313(U)
August 25, 2025
Supreme Court, Queens County
Docket Number: Index No. 720612/20
Judge: Timothy J. Dufficy
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Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

PRESENT: HON. TIMOTHY J. DUFFICY PART 35
Justice

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KIMBERLY LAKESHIA SATTAUR, SARA and S.H., an infant by her mother and guardian BIBI SABRINA KHAN and BIBI SABRINA KHAN, Individually,

Plaintiffs,

-against-

ASHTON E. PARRIS, JOSEPH SOLOMON NOAH and MAX N. HASKELL,

Defendants.

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Index No. 720612/20
Mot. Date: 5/13/25
Mot. Seq. 4

The following papers were read on this motion by defendants Joseph Solomon Noah and Max N. Haskell for an order, pursuant to CPLR 3212, granting summary judgment, on the issue of liability, in their favor and dismissing plaintiff's complaint and all cross-claims against them.

	PAPERS NUMBERED
Notice of Motion-Affidavits-Exhibits.....	EF 74-83
Answering Affidavits-Exhibits.....	EF 85-87; EF 90

Upon the foregoing papers, it is ordered that the motion by defendants Joseph Solomon Noah and Max N. Haskell is denied.

This action for personal injuries arises out of collision between a vehicle operated by defendant Ashton Parris (Parris) and a vehicle owned by defendant Max N. Haskell and operated by defendant Joseph Solomon Noah (Noah) (collectively the Noah defendants), that occurred on October 3, 2019, at the intersection of Surrey Place and Aberdeen Road, in Queens County.

It is undisputed that, before the accident, both vehicles were traveling in the same direction, on Surrey Place, which is a two-way roadway with one travel lane in each direction, separated by a double yellow line. Plaintiffs were passengers in the Parris vehicle.

The Noah defendants bring the instant motion for summary judgment, which is opposed by the plaintiffs and Parris. In support of the motion, they submit, among other things, the transcript of Parris' deposition testimony, the transcript of Noah's deposition testimony and, a video of the accident.

At his deposition, Parris testified that, before the accident, he was traveling behind a black vehicle. He observed that vehicle "veering left," as if it was going to make a left turn. He did not observe any directional signals on the black vehicle. Since he thought that the black vehicle was going to turn left, he accelerated and attempted to pass it on its right. As Parris was doing so, the black vehicle reduced its speed and attempted to turn right, and the two vehicles came into contact. His vehicle then came into contact with a brick wall around a house near the intersection.

After the accident, Parris spoke to a nearby resident, who told him that he (the resident) had a video of the accident. Parris recorded the resident's video, using his cell phone.

Noah testified that he was traveling, on Surrey Place, intending to go to a friend's house on Aberdeen Road. He intended to make a right turn onto Aberdeen Road. He does not remember if he applied his right turn signal. He was making the right turn onto Aberdeen Road, at the time of the accident. As he was making the turn, the passenger side front of his vehicle was by the driver's side front of the other vehicle.

Noah testified that before the accident, he had been traveling at about 25 miles per hour. At the time of the accident, he was traveling at about 5 to 10 miles per hour. After the accident, he also spoke to the same person that the other driver spoke to and he also recorded the video.

The Court has viewed the video, which is brief. It shows a white vehicle traveling straight ahead. It does not appear to have any turn signal on. As it reaches the intersection, it slows and starts to turn right. The video does not establish if the right turn signal was on when the vehicle begins to turn right. A white vehicle, traveling faster than the black vehicle, attempts to pass the black vehicle on its right, but there is contact between the two vehicles with the white vehicle then striking a brick wall.

A movant for summary judgment must make *prima facie* showing of entitlement to summary judgment as a matter of law through the submission of sufficient evidence to demonstrate the absence of any material issues of fact, and he or she must do so by tender of evidentiary proof in admissible form (*see Alvarez v Prospect Hosp.*, 68 NY2d 320

[1986]; *Zuckerman v City of New York*, 49 NY2d 557 [1980]). Failure to make such a showing requires denial of the motion, regardless of the sufficiency of the opposing papers (*Winegrad v New York Univ. Med. Center*, 64 NY2d 851, 853 [1985]). Once the movant has made the *prima facie* showing, the burden shifts to the opposing party to come forward with sufficient proof in admissible form to establish the existence of triable issue of fact (*Alvarez v Prospect Hosp*., *supra*, 68 NY2d 320, 324).

"As a general rule, a party does not carry its burden in moving for summary judgment by pointing to gaps in its opponent's proof, but must affirmatively demonstrate the merit of its claim or defense" (*Ranno v Cantor*, 129 AD3d 699 [2d Dept 2015] [internal quotations and citations omitted]).

"A court deciding a motion for summary judgment must view the evidence in the light most favorable to the nonmoving party" (*Tucubal v National Express Tr. Corp*, 209 AD3d 788, 789 [2d Dept 2022]; *see Jacobsen v New York City Health & Hosps. Corp*., 22 NY3d 824, 833 [2014]; *Vargas v Town of Huntington*, 206 AD3d 1034, 1035[2d Dept 2022]; *see Ortiz v Varsity Holdings, LLC*, 18 NY3d 335, 339 [2011]). The function of a court on a motion for summary judgment is not to resolve issues of fact or determine matters of credibility, but merely to determine whether such issues exist (*see Doyle v Wieber*, 194 AD3d 785 [2d Dept 2021]).

"There can be more than one proximate cause of an accident, and [g]enerally, it is for the trier of fact to determine the issue of proximate cause" (*Richardson v Cablevision Sys. Corp*., 173 AD3d 1083, 1084 [2d Dept 2019] [citations and internal quotation marks omitted]). Therefore, " '[d]efendants moving for summary judgment in a negligence action arising out of an automobile accident have the burden of establishing, prima facie, that they were not at fault in the happening of the accident' " (*Woods v Burgos*, 220 AD3d 688, 689 [2d Dept 2023] [citations and internal quotation marks omitted]), "or that the alleged negligence of another person was the 'sole proximate cause of the accident' " (*Woods v Burgos*, 220 AD3d at 689, quoting *Brunson v Korkovilas*, 208 AD3d 842, 843 [2d Dept 2022]).

Here, viewing the evidence most favorably to the plaintiffs and to Parris, as the Court is required to do, the Noah defendants fail to establish, *prima facie*, that Noah was free from fault in the happening of the collision or that the alleged negligence of Parris was the sole proximate cause of the collision (*see Tsarenkov v Rosenbaum*, 231 AD3d 1184, 1185 [2d Dept 2024]; *Brunson v Korkovilas*, 208 AD3d at 842-843).

Specifically, as stated above, Noah testified that he did not remember if he had applied his right turn signal before the accident. As also stated above, the video does not establish that Noah had applied the his right turn signal. Vehicle and Traffic Law § 1163 (b) provides that "[a] signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning." (*See Moore v City of New York*, 197 AD3d 93 [2d Dept 2021]).

Since "a violation of a standard of care imposed by the Vehicle and Traffic Law constitutes negligence per se" (*E.B. v Gonzalez*, 208 AD3d 618, 619 [2d Dept 2020] [internal quotation marks omitted]), the Noah defendants' own submissions fail to establish that Noah was free from comparative negligence or that the alleged negligence of Parris was the sole proximate cause of the accident.

Since the Noah defendants failed to meet their *prima facie* burden, it is unnecessary to determine whether the papers submitted by the plaintiff and Parris in opposition are sufficient to raise a triable issue of fact (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]).

Accordingly, it is

ORDERED that the motion for summary judgment by defendants Joseph Solomon Noah and Max N. Haskell (the Noah defendants) is denied.

Dated: August 25, 2025

TIMOTHY J. DUFFICY, J.S.C.

FILED
8/26/2025 TA
COUNTY CLERK
QUEENS COUNTY