

Williams v Mata
2025 NY Slip Op 35492(U)
January 24, 2025
Supreme Court, Dutchess County
Docket Number: Index No. 2024-50799
Judge: Maria G. Rosa
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

Present:

Hon. Maria G. Rosa, Justice

AMANDA WILLIAMS and STEVEN WILLIAMS,
Individually and as Husband and Wife,

Plaintiffs,

-against-

MARIA MATA and DEYANIRA ESTEVEZ,

Defendants.

DECISION AND ORDER

Index No.: 2024-50799

Motion Sequence: 1

The following papers were read and considered on Plaintiffs' motion for summary judgment on the issue of liability:

<u>Document:</u>	<u>NYSCEF Doc. No(s):</u>
NOTICE OF MOTION.....	10 ¹
AFFIRMATION IN SUPPORT and EXHIBITS A-C.....	11-14
AFFIDAVIT IN SUPPORT.....	15
AFFIRMATION IN OPPOSITION.....	18
REPLY AFFIRMATION.....	19

This is an action for personal injuries arising out of an automobile accident. As alleged in the complaint, on March 12, 2021 in the parking lot of Stringham Park in LaGrangeville, New York, Plaintiff Amanda Williams ("Plaintiff," unless otherwise specified) was struck by a vehicle driven by Defendant Maria Mata and owned by Defendant Deyanira Estevez, causing severe injuries.

Plaintiffs commenced this action on February 23, 2024, asserting a first cause of action for negligence on behalf of Plaintiff, and a second cause of action for loss of consortium on behalf of her husband, Plaintiff Steven Williams. Defendants answered the complaint on April 25, 2024.

¹ Although Plaintiffs' motion is not supported by a Statement of Material Facts as required by this Court's Part Rules, this omission will be disregarded as there is no dispute as to the nature of the accident underlying this matter (CPLR 2001; 22 NYCRR 202.8-g[e]).

On November 19, 2024, prior to the close of discovery, Plaintiffs filed the instant motion for summary judgment, seeking to establish Defendants' liability for the accident, and to dismiss their first affirmative defense alleging Plaintiff's comparative fault, fifth affirmative defense of lack of personal jurisdiction, and sixth affirmative defense of the expiration of the statute of limitations. In opposition, Defendants oppose only those branches of Plaintiffs' motion directed to the parties' liability, arguing that summary judgment would be premature as substantial discovery, including the parties' depositions, has not been completed.

On a motion for summary judgment "[t]he movant 'must make a *prima facie* showing of entitlement to judgment as a matter of law, tendering sufficient admissible evidence to demonstrate the absence of any material issues of fact'" (*Bazdaric v Almah Partners LLC*, 41 NY3d 310, 316 [2024], quoting *Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). If the movant has met this threshold burden, to defeat the motion the opposing party must "produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action" (*Alvarez*, 68 NY2d at 320; CPLR 3212[b]; see also *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). That said, "[w]here a party fails to oppose some or all matters advanced on a motion for summary judgment, the facts as alleged in the movant's papers may be deemed admitted as there is, in effect, a concession that no question of fact exists" (*114 Woodbury Realty, LLC v 10 Bethpage Rd., LLC*, 178 AD3d 757, 761–762 [2d Dept 2019]).

In support of their motion, Plaintiffs submit copies of the pleadings, a copy of a certified police accident report, and a brief affidavit from Plaintiff. Plaintiff states that the accident occurred when she "was unloading a stroller from the back of [her vehicle] . . . [and] was struck from the side and back by [Defendants' vehicle]." She further states that her vehicle "was properly parked in a delineated parking area of Stringham Park, and [she] was standing underneath the hatch of [her] vehicle" when Defendants' "vehicle quickly swerved into [her] and [she] was unable to perform any evasive maneuvers." Given these facts, Plaintiffs have established their *prima facie* entitlement to summary judgment as to Defendants' liability (*Rodriguez v City of New York*, 31 NY3d 312 [2018]; *Thorpe v AutoZone, Inc.*, 212 AD3d 861, 862 [2d Dept 2023]). These facts further establish Plaintiffs' *prima facie* entitlement to summary judgment dismissing Defendants' first affirmative defense of culpable conduct, as they show that Defendant Mata was negligent *per se* by failing to "exercise due care to avoid colliding with any . . . pedestrian" (Vehicle & Traffic Law §§ 1100[a], 1146[a]; *Thorpe*, 212 AD3d at 862; see *Seizeme v Levy*, 208 AD3d 809, 811 [2d Dept 2022]).

In opposition, Defendants submit only an affirmation of counsel asserting that summary judgment would be premature prior to the taking of the parties' depositions and completing other discovery. However, "[a] party who contends that a summary judgment motion is premature is required to demonstrate that discovery might lead to relevant evidence or that the facts essential to justify opposition to the motion were exclusively within the knowledge and control of the movant" (*Dalrymple v Moroch*, 208 AD3d 751, 753 [2d Dept 2022]). An affirmation of counsel, expressing the "mere hope or speculation that evidence sufficient to defeat a motion for summary judgment may be uncovered during the discovery process[,] is an insufficient basis for denying the motion" (*Id.*; *Morales v Amar*, 145 AD3d 1000, 1003 [2d Dept 2016]). Here, Defendants have not submitted any admissible evidence to support their argument that further discovery *may* reveal evidence of Plaintiff's negligence with respect to the accident, or to rebut Plaintiff's affidavit

(*Alvarez*, 68 NY2d at 327). Accordingly, Plaintiffs are entitled to summary judgment as to Defendants' sole liability for the accident, including dismissal of Defendants' first affirmative defense.

Regarding the other branches of Plaintiffs' motion seeking dismissal of Defendants' fifth affirmative defense of lack of personal jurisdiction and sixth affirmative defense of the expiration of the statute of limitations, as noted above, Defendants do not oppose this relief. As Plaintiffs have demonstrated that Defendants did not move to dismiss for lack of personal jurisdiction within the requisite 60-day period after filing their answer (CPLR 3211[e]), and that this action was commenced within the three-year statute of limitations (CPLR 214), these affirmative defenses are without merit and must also be dismissed.

Based on the foregoing, it is hereby

ORDERED that Plaintiffs' motion for summary judgment as to Defendants' liability for the accident is granted; and it is further

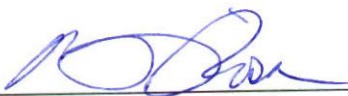
ORDERED that Defendants' first affirmative defense alleging Plaintiff's comparative fault, fifth affirmative defense of lack of personal jurisdiction, and sixth affirmative defense of the expiration of the statute of limitations are dismissed; and it is further

ORDERED that a preliminary conference shall be held in person on February 19, 2025 at 9:30 a.m. The preliminary conference may be canceled if a completed and fully-executed Preliminary Conference Stipulation & Order is e-filed on NYSCEF not later than 4:00 p.m. on February 18, 2025.

The foregoing constitutes the decision and order of the Court.

Dated: January 24, 2025
Poughkeepsie, New York

ENTER:



MARIA G. ROSA, J.S.C.

Pursuant to CPLR §5513, an appeal as of right must be taken within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty days thereof.

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Dalmata, Maloy & Burke, LLP
670 Franklin Street, Suite 100
Schenectady, NY 12305

Wilson, Bave, Conboy, Cozza & Couzens, P.C.
707 Westchester Avenue, Suite 213
White Plains, NY 10604