

Hallback v New York City Tr. Auth.
2026 NY Slip Op 30247(U)
January 21, 2026
Supreme Court, New York County
Docket Number: Index No. 452307/2025
Judge: Richard Tsai
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. RICHARD TSAI PART 21

Justice

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DEMETRIUS M. HALLBACK,
Plaintiff,

INDEX NO. 452307/2025
MOTION DATE 10/27/2025
MOTION SEQ. NO. 001

- v -

NEW YORK CITY TRANSIT AUTHORITY,
METROPOLITAN TRANSPORTATION AUTHORITY, MTA
BUS COMPANY, MANHATTAN AND BRONX SURFACE
TRANSIT OPERATING AUTHORITY, NGOZICHUKWU
AZOKWU, and JOHN DOE,

DECISION + ORDER ON
MOTION

Defendants.

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The following e-filed documents, listed by NYSCEF document numbers (Motion 001) 25 - 36
were read on this motion to/for CONSOLIDATE/JOIN FOR TRIAL.

In this action arising out of an alleged motor vehicle collision, defendants New
York City Transit Authority (NYCTA), Metropolitan Transportation Authority (MTA), MTA
Bus Company (MTA Bus), and Manhattan and Bronx Surface Transit Operating
Authority (MABSTOA) move for the following relief:

- (1) To join the above captioned action (Hallback Action) with Anthony Watson v
New York City Transit Authority, Metropolitan Transportation Authority, MTA
Bus Company, MTA Bus Company, John Doe, name being fictitious and
intended to be the operator of the vehicle owned by New York City Transit
Authority, Metropolitan Transportation Authority, MTA Bus Company and
Ngozichukwu U. Azokwu, Index No. 726637/2025 (Watson Action), for a joint
trial on the issue of liability,
(2) To transfer the above captioned to Supreme Court, Queens County,
(3) Grant summary judgment dismissing the complaint and all crossclaims as
against the NYCTA, MTA, and MABTSOA.

Based upon the foregoing documents, it is hereby ORDERED that defendants'
motion is GRANTED; and it is further

ORDERED that the branch of defendants' motion for summary judgment
dismissing the complaint, and all cross-claims, as against defendants New York City
Transit Authority, Metropolitan Transportation Authority, and Manhattan and Bronx
Surface Transit Operation Authority is GRANTED without opposition, and the complaint

is severed and dismissed as against these defendants, with costs and disbursements as taxed by the Clerk upon submission of an appropriate bill of costs, and all cross-claims by and against these defendants are dismissed; and it is further

ORDERED that the remainder of the action shall continue; and it is further

ORDERED that the *Hallback* Action shall be jointly tried, as to liability, with the *Watson* Action; and it is further

ORDERED that, within 30 days from entry of this order, defendants shall serve upon the Clerk of the General Clerk's Office a copy of this order with notice of entry shall pay the appropriate transfer fee, if any, and shall contact the staff of the Clerk of this Court and cooperate in effectuating the transfer; and it is further

ORDERED that service of this order the Clerk of the General Clerk's Office¹ shall be made in accordance with the procedures set forth in Section J of the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at <https://www.nycourts.gov/LegacyPDFS/courts/1jd/supctmanh/Efil-protocol.pdf> [last accessed December 16, 2025]); and it is further

ORDERED that the venue of this action is changed from this Court to the Supreme Court, Queens County, pursuant to this order; and it is further

ORDERED that the Clerk of this Court shall transfer the file in this action to the Clerk of the Supreme Court, Queens County and shall mark his records to reflect such transfer; and it is further

ORDERED that the Clerk of this Court shall coordinate the transfer for the file in this action with the Clerk of the Supreme Court, Queens County, so as to ensure an efficient transfer and minimize insofar as practical the reproduction of documents, including with regard to any documents that may be in digital format; and it is further

ORDERED that such service upon the Clerk of the Court shall be made in accordance with the procedures set forth in Section J of the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at

¹ Pursuant to Section J, service upon the Clerk of the General Clerk's Office is done by posting to NYSCEF a copy of the order, with notice of entry (if required by the court), "using the NYSCEF document type 'Service on Supreme Court Clerk (Genl. Clerk) w/Copy of Order'" and the filer must provide "as additional information (in the 'Additional Document Information' field) a brief description of the type of order being submitted (e.g., 'Order of Consolidation' . . .).

<https://www.nycourts.gov/LegacyPDFS/courts/1jd/suptctmanh/Efil-protocol.pdf>);² and it is further

ORDERED that upon this action being transferred to Supreme Court, Queens County, and upon all appropriate filing having been effected and all fees having been paid, the Clerk of the Supreme Court, Queens County shall mark their records to reflect this action having been joined with the *Watson* Action for a joint a joint trial on the issue of liability; and it is further

ORDERED that, upon payment of the appropriate calendar fees and the filing of notes of issue and certificates of readiness with the Clerk of the Supreme Court, Queens County in the *Hallback* Action and the *Watson* Action, the Clerk of the Supreme Court, Queens County shall place the aforesaid actions upon the trial calendar for a joint trial as to liability; and it is further

ORDERED that the compliance conference scheduled in IAS Part 21 on May 7, 2026 is canceled.

Defendants NYCTA, MTA, and MABSTOA met their prima facie burden of summary judgment dismissing the complaint as against them, “by submitting evidence that demonstrates the absence of any material issues of fact” (*Nellenback v Madison County*, — NY3d —, 2025 NY Slip Op 02263 [2025]). In support of their motion, they submitted an affidavit from Marlo Polese, a non-party to this action, who is “the Assistant General Counsel for MTA Bus Company” (defendants’ exhibit G in support of motion [NYSCEF Doc. No. 32] affirmation of Marlo Polese, ¶ 1). Based on the notice of claim submitted in both actions, as well as the summons and complaints, Polese was able to “establish that license plate AW6805 was on a bus 3282, which was owned by MTA Bus Company and would have been driven by an employee of MTA Bus Company” (*id.* ¶ 8). As such, the NYCTA, MTA, and MABSTOA cannot be held liable for the motor vehicle collision because they neither owned nor operated the vehicle in question, and they did not employ the bus operator.

Because the NYCTA, MTA, and MABSTOA can no longer be held liable to plaintiff, the cross-claims against them by co-defendant Ngozichukwu Azokwu that sound in common-law indemnification and contribution are dismissed by operation of law (*see e.g. Bendel v Ramsey Winch Co.*, 145 AD3d 500, 501 [1st Dept 2016] [in view of the dismissal of the complaint in its entirety as against a defendant, the cross-claims against that defendant are also dismissed]).

Likewise, the NYCTA’s, MTA’s, and MABSTOA’s own cross-claims for common-law indemnification and contribution against Azokwu are dismissed as academic (*Rogers v Rockefeller Group Intl., Inc.*, 38 AD3d 747, 750 [2d Dept 2007]). To be clear, the cross-claims of defendant MTA Bus Company against Azokwu are not dismissed.

² Pursuant to Section J, service upon the County Clerk of Supreme Court, New York County is done by filing with NYSCEF a completed *Notice to the County Clerk - CPLR § 8019 (c)* (NYSCEF Form EF-22, available on the NYSCEF site) (*id.*).

As to the branch of the motion concerning joinder, it is undisputed that both actions “arise out of a motor vehicle accident which allegedly occurred on August 3, 2024, on Horace Harding Expressway Service Road, in Queens” (defendants’ counsel’s affirmation in support of motion [NYSCEF Doc. No. 26] ¶ 4; *compare* NYSCEF Doc. No. 1 [complaint in *Hallback* Action] *with* NYSCEF Doc. No. 1 [complaint in *Watson* Action]). Furthermore, both Hallback and Watson “claim to have been a passenger in [Ngozichukwu Azokwu’s] vehicle which was struck by an MTA Bus” (affirmation in support of motion, ¶4). As such, since both actions stem from the same alleged collision, there are “common questions of law or fact” that warrant a joint trial as to liability (CPLR 602 [a]; *see also Matter of New York City Asbestos Litig.*, 199 AD3d 488 [1st Dept 2021]). Whether both cases should be coordinated for discovery is left to the discretion of the justice in Supreme Court, Queens County who will be assigned to the *Hallback* action.



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1/21/2026		RICHARD TSAI, J.S.C.
DATE		
CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED <input checked="" type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input type="checkbox"/> NON-FINAL DISPOSITION <input type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input checked="" type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE