

Saitas v Alam
2026 NY Slip Op 30487(U)
January 14, 2026
Supreme Court, New York County
Docket Number: Index No. 161368/2023
Judge: Christopher Chin
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. CHRISTOPHER CHIN PART 22

Justice

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INDEX NO. 161368/2023

SERENA SAITAS,

MOTION DATE 06/04/2025

Plaintiff,

MOTION SEQ. NO. 003

- v -

SHAMSUL ALAM, NETWORK AGAMI CAB CORP.,
ARTHUR CAB LEASING CORP.,

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 25, 26, 27, 28, 29, 30, 31, 32, 36, 37, 38, 39, 41, 44, 45, 46, 47

were read on this motion to/for JUDGMENT - SUMMARY

Upon the foregoing documents, and after oral argument, it is

ORDERED that this motion by defendants Shamsul Alam and Network Agami Cab Corp. for summary judgment pursuant to CPLR § 3212 dismissing all claims against them is granted. The reasons for the court's decision are explained below.

This is an action to recover damages for personal injuries allegedly sustained by plaintiff as a result of an accident that occurred on July 3, 2021, on Second Avenue, between East 64th and East 65th streets, in the County, City and State of New York. Plaintiff alleges she was struck by a bicycle while walking through a bike lane, after being dropped off by defendant Shamsul Alam, the taxi driver of the vehicle in which plaintiff had been a passenger, moments before the accident. The taxi was registered to defendant Network Agami Cab Corp.

It is not disputed that Second Avenue is a one-way street that has a bike lane on the left side of the street, closest to the curb. The bike lane is located between the parking lane and the

curb. The travel lanes on Second Avenue are to the right of the parking lane. It is also not disputed that plaintiff was struck by the bicycle while she was in the bike lane, and that there was no contact between the bicycle and defendants' vehicle.

At her deposition, plaintiff testified that defendant Alam stopped in a travel lane to let her and her companion out of the vehicle. After exiting, plaintiff was walking straight to the curb, when she was struck by the bicycle while she was in the bike lane, after she had walked past cars parked in the parking lane.

In seeking summary judgment, defendants argue that the uncontradicted evidence shows that they are not responsible for the accident. In support, defendants rely on the affidavit of defendant Alam.¹ Defendant Alam states that he stopped the taxi on the left side of Second Avenue, in the parking lane, to let plaintiff and her companion out. Plaintiff exited the vehicle from the left rear door. A few seconds after plaintiff exited, he saw plaintiff and a bicyclist were on the ground. Defendants argue that defendant Alam safely transported plaintiff to her destination and the accident with the bicycle occurred due to the negligence of the bicyclist and/or plaintiff, separate and apart from any actions by defendant Alam, in particular, as to where plaintiff was dropped off. Defendants also rely on plaintiff's deposition testimony in which she stated that there was a car parked less than a full car length in the parking lane, behind where defendants' vehicle was stopped, and that there was no space to park in the parking lane in front of that vehicle. Plaintiff

¹ The affidavit states that Alam drove plaintiff and her companion to the requested destination and stopped his vehicle in the parking lane to drop them off. A few seconds after plaintiff exited the vehicle, he saw plaintiff and a bicyclist on the ground. After the motion was filed, defendant Alam was deposed. At the deposition, he stated that he did not understand English but nonetheless signed the affidavit. He stated that he did receive a copy of the statement in Bengali and that the affidavit was accurate. At the deposition, defendant Alam testified that he did not recall which lane his vehicle was in when the passengers exited the vehicle.

further testified that she and her companion passenger told defendant Alam the drop off destination and plaintiff did not complain about defendant Alam's driving, nor about the location of the drop off. Plaintiff testified that after exiting defendants' vehicle, she walked past a parked car, was looking straight ahead, unaware that there was bike lane, when she was struck by the bicycle, as she crossed the bike lane.

In opposition, plaintiff argues that defendants did not establish prima facie that defendant Alam provided plaintiff with a safe place to alight the taxicab. Plaintiff points out that her testimony was that defendant Alam stopped the vehicle in a driving lane to drop her off (adjacent to the parking lane), whereas defendant Alam swore in his affidavit that plaintiff was dropped off while his vehicle was parked in the parking lane.²

For a defendant to be found liable for damages based on negligence, there must be a duty owed the plaintiff and a negligent breach of that duty, which was a proximate cause of the plaintiff's injuries (*Rodriguez v. Manhattan & Bronx Surface Tr. Operating Auth.*, 117 AD2d 541, 543 [1st Dept 1986], *lv denied* 68 NY2d 602 [1986]).

Additionally, it is well settled that common carriers have a duty to stop in a reasonably safe place for passengers to alight and may be held liable for injuries suffered by passengers forced to disembark at an unsafe place (*id.* at 542). Once the passenger disembarks safely, no further duty exists (*see e.g. Wisoff v. County of Westchester*, 296 AD2d 402, 402-03 [2d Dept

² The court notes that while plaintiff initially argued in opposition that the within motion was premature because the deposition of defendant driver had yet to be conducted, subsequent to the filing of the motion, depositions were completed and, on or about September 10, 2025, a note of issue was filed; the parties were granted permission to submit supplemental papers in support and in opposition to the motion, which have been supplied and considered (*see* NYSCEF Doc. No. 41).

2002]; *Sigmond v. Liberty Lines Tr.*, 261 AD2d 385, 387 [2d Dept 1999]; *Kramer v. Lagnese*, 144 AD2d 648, 649 [2d Dept 1988]; *Mooney v Niagara Frontier Tr. Metro Sys.*, 125 AD2d 997, 998 [4th Dept 1986]).

Here, after a review of the record, including the parties' deposition testimony, the court finds that defendants Alam and Network Agami Cab Corp established as a matter of law that they were not negligent with respect to the subject accident. Specifically that defendants committed no acts or failed to perform any duty owed to the plaintiff, which was a substantial factor in bringing about the accident. It is undisputed that at the time of the accident, defendants' vehicle was fully stopped and was not involved in the accident. Plaintiff testified that she directed defendant driver to her destination and when the car stopped, she did not complain about the location of the drop off. According to plaintiff's own testimony, defendant could not have stopped closer to the curb, due to the existence of the parking lane and bike lane. Plaintiff's testimony also reveals that while she looked left and right after exiting the vehicle, she did not know there was a bike lane and was struck by the bicycle as she crossed the bike lane.

Plaintiff's attempt to raise a factual issue based on that defendant driver could not recall which lane his vehicle was in when he dropped plaintiff off (*i.e.* in the traffic lane or the parking lane) is misplaced. Regardless of where Alam stopped the vehicle to make the drop off, it is undisputed that the closest place he could possibly have stopped was in the parking lane, adjacent to the bike lane. It is also not disputed that plaintiff in fact made it safely to the parking lane next to the bike lane after exiting defendants' vehicle. Therefore, regardless of where plaintiff was dropped off, she would still have had to navigate across the bike lane to get to her destination. Plaintiff admitted at her deposition that she was not aware that there was a bike lane at the location, which likely contributed to her accident.

In *Smith v. Sherwood* (16 NY3d 130, 133-34 [2011]), the Court of Appeals reversed the Appellate Division and held that, even where a bus dropped off a 12 year old boy at an incorrect bus stop which required the boy to cross the street during which he sustained injuries, the bus could not be held responsible for the boy’s injuries. The Court specifically found that while there may have been a question of fact regarding the reason why the child was dropped off at an incorrect location, it was unnecessary to resolve that factual issue at a trial, because the boy had exited the bus at a safe location, terminating any duty owed to him by the defendant bus company (*id.* at 134). Similarly, here, since defendant Amar dropped plaintiff at her requested destination and plaintiff was able to reach the bike lane safely, defendants cannot be held responsible for the injuries she sustained, while crossing the bus lane.

Since plaintiff failed to raise a material issue of fact as to whether defendant driver committed any acts or failed to perform any duty owed to plaintiff which was a substantial factor in causing plaintiff’s injuries, defendants’ motion is granted and the complaint shall be dismissed in its entirety, upon proof of service of a copy of this order with notice of entry.³

1/14/2026
DATE


CHRISTOPHER CHIN, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
		<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE:

³ The court notes that by order dated May 24, 2024, the case was dismissed as against defendant Arthur Cab Leasing Corp.