

Charles v Facility Transp. Solutions Inc.

2026 NY Slip Op 31189(U)

March 24, 2026

Supreme Court, Kings County

Docket Number: Index No. 531696/2022

Judge: Anne J. Swern

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At an IAS Trial Term, Part 75 of the Supreme Court of the State of New York, Kings County, at the Courthouse located at 360 Adams Street, Brooklyn, New York on the 24th day of March 2026.

P R E S E N T: HON. ANNE J. SWERN, J.S.C.

MARIE CLAUDE CHARLES,

Plaintiff(s),

-against-

FACILITY TRANSPORT SOLUTIONS
INC. and JORGE SANTIAGO,

Defendant(s).

DECISION & ORDER

Index No.: 531696/2022

Calendar No.: 4 & 5

Motion Seq.: 004 & 005

Return Date: 1/22/2026

Recitation of the following papers as required by CPLR 2219(a):

	NYSCEF Papers Numbered
004 Notice of Motion and Supporting Documents	88-96
Affirmation in Opposition and Supporting Documents.....	105-106
Reply Affirmation and Supporting Documents	125-126
005 Notice of Motion and Supporting Documents	107-113
Affirmation in Opposition and Supporting Documents.....	116-124
Reply Affirmation and Supporting Documents	143-144

Upon the foregoing papers, the decision and order of the Court is as follows:

This is an action for personal injuries arising out of a hit in the rear three-car accident on Beach Channel Drive, near the intersection of Beach 90th Street, Queens, New York. Plaintiff was a passenger in the vehicle operated by defendant Jorge Santiago (“Santiago”), in the course of his employment with the owner of the vehicle, defendant Facility Transport Solutions Inc. At the time of the accident, Santiago was transporting Mikhail Borukhov and his medical aide, Ms. Charles to a doctor’s appointment. According to the police report, Santiago failed to stop at a red light and hit the vehicle operated by non-party, Derek Lewis in the rear. Mr. Lewis’ vehicle

was then pushed into the car in front of him, owned and operated by non-party Havigal D. Williams.

Defendants move to amend their answer to include a defense of an emergency created by plaintiff's conduct in his transport vehicle at the time of the accident. (MS #4).

Plaintiff has moved for an order of summary judgment per CPLR § 3212 on the issue of liability. In support of the motion, plaintiff submits her deposition transcript, the certified police report and the Order of Justice Allan B. Weiss, Supreme Court, Queens County dated 7/22/2022. Justice Weiss' order granted summary judgment on liability to Havigal D. Williams, finding that Santiago was negligent, as a matter of law, for the accident. Therefore, plaintiff argues that this decision precludes Santiago from re-litigating the issue of liability before this Court. (MS #5)

In opposition, defendant argues that plaintiff was creating a disturbance by acting aggressively towards him and leaving her seat within the transport vehicle to confront him while he was driving. Santiago was unable to pull over during this confrontation due to the traffic conditions on Beach Channel Drive. When he last observed the traffic signal it was yellow, but by the time he regained his composure, he was unable to stop the transport vehicle and struck Mr. Lewis' vehicle in the rear. Therefore, it is argued that defendant was faced with an emergency not created by him.

As to the collateral effect of the *Williams* decision, defendant argues that he filed a Notice of Appeal for the *Williams* decision, but the case was discontinued before a final determination by the Appellate Division, Second Department. Therefore, he is not barred from re-litigating the issue of liability. Further, in an action commenced by Derek Lewis, Justice Karen B. Rothenberg of Supreme Court, Kings County denied Lewis' motion for summary judgment on

liability against Santiago finding that a question of fact existed as to whether “the passenger in his vehicle caused an emergency situation” [not caused by Santiago].

"A rear-end collision with a stopped or stopping vehicle creates a *prima facie* case of negligence with respect to the operator of the moving vehicle and imposes a duty on that operator to rebut the inference of negligence by providing a nonnegligent explanation for the collision" (*Ramos v. TC Paratransit*, 96 AD3d 924, 925 [2d Dept. 2012] [internal citations omitted]). The emergency doctrine, as a nonnegligent explanation, recognizes that when a defendant is faced with a sudden and unexpected circumstance, they may not be negligent if the actions taken are reasonable and prudent in the emergency context *and that they did not create the emergency* (*Caristo v Sanzone*, 96 NY2d 172, 174 [2001] [italics added]).

Here, plaintiff demonstrated a *prima facie* entitlement to summary judgment through her deposition testimony submitted in support of the motion. Her testimony established that Santiago’s vehicle struck the rear Lewis’ vehicle (*Id.*). However, in opposition to the motion, Santiago raised a question of fact concerning whether an emergency was created by plaintiff’s conduct (*Caristo v Sanzone*, 96 NY2d 174]). Due to the conflicting decisions in the *Williams* and *Lewis* actions arising out of this same accident, the Court denies plaintiff’s motion for summary judgment. Based on this finding, defendants’ motion to amend their answer is granted.

The Court has considered the parties’ remaining arguments and finds same to be without merit.

Accordingly, it is hereby

ORDERED that defendants’ motion to amend their answer GRANTED (MS #4), and it is further

ORDERED that defendant shall separately file the amended answer in NYSCEF, and it is further

ORDERED that plaintiff's motion for summary judgment on liability per CPLR § 3212 [b] is DENIED (MS #5).

This constitutes the decision and order of the Court.

ENTER:



Hon. Anne J. Swern, J.S.C.
Dated: 3/24/2026