

Tacoaman-Maiza v Duverge-Guzman

2026 NY Slip Op 31302(U)

March 17, 2026

Supreme Court, Kings County

Docket Number: Index No. 537541/2023

Judge: Richard J. Montelione

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At IAS Part 99 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, NY 11201, on the 17th day of March 2026.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: PART 99

**DECISION
and
ORDER**

KEVIN J. TACOAMAN-MAIZA,

Plaintiff,

-against-

BRIONIS M. DUVERGE-GUZMAN, YONATAN YEKUTIEL,
AND LINKED SECURITY INC.,

Defendants.
-----X

Index No.: 537541/2023
Mot. Seq. No.: 1

After oral argument, the following papers were read on this motion pursuant to CPLR 2219(a):

<u>Papers</u>	NYSCEF DOC. #
Plaintiff's Notice of Motion for an Order: 1) Granting Summary Judgment pursuant to CPLR 3212 in favor of the Plaintiff on the issue of liability based on the following: (a) that drivers have a statutory duty under VTL § 1129 (a), to not follow another vehicle more closely than is reasonable; and (b) the commonlaw principles that a rear-end collision establishes a prima facie case of negligence on the part of the operator of the rear vehicle and that a driver is considered to be negligent when an accident occurs because the driver failed to see that which through proper use of the driver's senses he should have seen; 2) Striking Defendants' Affirmative Defenses of comparative negligence; 3) Setting this matter down for a trial on damages; and 4) granting such other and further relief as this Court deems just and proper/Affidavits/Affirmations/Exhibits.....	16-30
Answering Affirmations/Exhibits.....	32-35, 38, 39
Reply Affirmation.....	36, 37

MONTELIONE, RICHARD J., J.

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Plaintiff Kevin J. Tacoaman-Maiza commenced this action by filing a Summons and Complaint on December 22, 2023 (NYSCEF Doc. No. 1), alleging personal injuries arising from a motor vehicle collision that occurred on September 2, 2022, at approximately 9:00 a.m., on Union Avenue at or near its intersection with Meeker Avenue, County of Kings, New York. Plaintiff alleges that while his vehicle was stopped at a red light, a white van operated by defendant Brionis M. Duverge-Guzman and owned by defendants Yonatan Yekutiel and Linked Security Inc. struck the rear of his vehicle.

Issue was joined on or about March 19, 2024, when defendants filed their Verified Answer (NYSCEF Doc. No. 8) admitting ownership and operation of the subject van and asserting affirmative defenses including comparative negligence.

Plaintiff moves pursuant to CPLR § 3212 for an order granting partial summary judgment on the issue of liability against defendants and dismissing defendants' affirmative defense of comparative negligence.

Background

According to plaintiff's sworn affidavit dated September 27, 2024 (NYSCEF Doc. No. 21), on September 2, 2022, at approximately 9:00 a.m., plaintiff was operating his 2016 Mercedes-Benz bearing New York license plate number KTD6262 and traveling northbound on Union Avenue near its intersection with Meeker Avenue in Kings County, New York. Plaintiff avers that the weather was clear and the roadways were dry. Union Avenue at the location of the incident was a two-way road with two lanes of travel in either direction, and the intersection of Union Avenue and Meeker Avenue was controlled by a traffic light. Vehicles in the right lane in the northbound direction must proceed straight, while vehicles in the left lane must turn left.

Plaintiff avers that at the time of the incident, his vehicle was stopped for a red traffic light in the left travel lane. He was sitting in the front driver's seat, wearing his seatbelt. In the moments leading up to the collision, there was no traffic, and plaintiff was the first vehicle stopped at the traffic light. Plaintiff intended to turn left at the intersection onto Meeker Avenue. As plaintiff was approaching the subject intersection, the traffic signal was red. Plaintiff brought his vehicle to a controlled stop and applied his left turn signal. At no point before the collision did plaintiff slam on the brakes. After plaintiff had been stopped for about 30-40 seconds, his vehicle was struck from behind by defendants' white van. There was one impact to the rear of plaintiff's vehicle, and that impact was heavy. Plaintiff was not distracted; he was not on his cell phone, did not have headphones in, the radio was not on, and he was alone in his vehicle. There were no warnings alerting plaintiff to the pending collision; no horns sounded and he did not hear the sound of brakes screeching. Plaintiff alleges that he sustained serious injuries as a result of the incident (NYSCEF Doc. No. 21, ¶¶ 3-13).

In contrast, according to the affidavit of defendant Brionis M. Duverge-Guzman filed in opposition (NYSCEF Doc. No. 34), the collision occurred on Meeker Avenue, not on Union Avenue, and both vehicles were moving at the time of impact. Defendant Guzman avers that after both vehicles had completed a left turn from Union Avenue onto Meeker Avenue on a

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green traffic light, plaintiff's vehicle suddenly and without warning stopped for no observable reason on an open roadway. Defendant Guzman avers that he had been following plaintiff's vehicle at approximately 5 mph and maintaining a safe distance but was unable to stop his vehicle in time to avoid the collision due to plaintiff's sudden and unforeseeable stop on a clear and open roadway without any observable impediment to traffic. Defendant Guzman contends that plaintiff failed to provide any warning for his stop and violated Vehicle and Traffic Law § 1163 by stopping suddenly without signaling (NYSCEF Doc. No. 34, ¶¶ 11-14).

Defendants also submitted two photographs taken immediately following the collision (Exhibit A, NYSCEF Doc. No. 35) showing plaintiff's black Mercedes bearing license plate KDT6262 and defendants' white van directly behind it. Defendants contend that these photographs show no observable dent to plaintiff's vehicle and barely a paint scratch, contradicting plaintiff's claim that there was a "heavy" impact (NYSCEF Doc. No. 32, ¶¶ 15-17; NYSCEF Doc. No. 34, ¶ 16).

Legal Analysis

A motion for summary judgment will be granted if, upon all the papers and proof submitted, the cause of action or defense is established sufficiently to warrant directing judgment in favor of any party as a matter of law. CPLR 3212 (b); *Gilbert Frank Corp. v Federal Ins. Co.*, 70 NY2d 966, 967 [1988]; *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]. On such a motion, the evidence will be construed in a light most favorable to the party against whom summary judgment is sought. *Spinelli v Procassini*, 258 AD2d 577 [2d Dept 1999]; *Tassone v Johannemann*, 232 AD2d 627, 628 [2d Dept 1996]. The movant must therefore offer sufficient evidence in admissible form to eliminate all material questions of fact. *Alvarez v Prospect Hosp.*, 68 NY2d 320 [1986]; *Zuckerman* at 562; *Friends of Animals, Inc v Associated Fur Mfrs, Inc*, 46 NY2d 1065 [1979].

It is well established that, "a rear-end collision with a stopped or stopping vehicle establishes a prima facie case of negligence on the part of the operator of the rear vehicle, thereby requiring that operator to rebut the inference of negligence by providing a nonnegligent explanation for the collision." (*Graham v New York City Transit Authority*, 219 AD3d 1316, 1316 [2d Dept 2023], quoting *Arslan v Costello*, 164 AD3d 1408, 1409 [2018]). Here, defendant's sudden stop defense is conclusory and insufficient to establish a nonnegligent explanation for a rear-end collision. (*See Brothers v Bartling*, 130 AD3d 554, 556 [2d Dept 2015]). The defendant driver's affidavit that he was a safe distance from plaintiff and was travelling at 5 mph at the time of contact is inadequate as a matter of law given that if there was a "safe distance," at 5 mph, the vehicle would have been able to stop without contacting the plaintiff's vehicle.

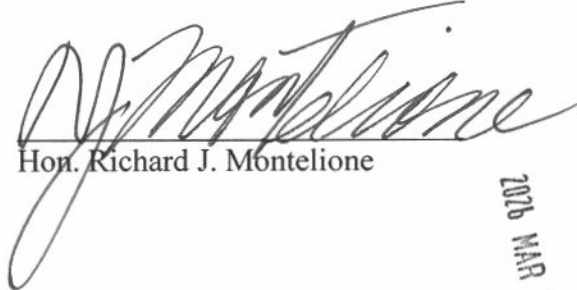
For the foregoing reasons, it is hereby

ORDERED, that plaintiff KEVIN J. TACOAMAN-MAIZA's motion (MS #1) for partial summary judgment on the issue of liability and to strike defendants' affirmative defenses of comparative negligence is GRANTED in its entirety; and it is further

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ORDERED that all other requests for relief herein are denied.

This constitutes the decision and order of the Court.



Hon. Richard J. Montelione

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