

<b>Valentino v City of New York</b>
2026 NY Slip Op 31365(U)
April 6, 2026
Supreme Court, New York County
Docket Number: Index No. 157592/2025
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

-----X

CHRISTIAN VALENTINO,
Plaintiff,

- v -

THE CITY OF NEW YORK, NEW YORK CITY ECONOMIC
DEVELOPMENT CORP., METROPOLITAN
TRANSPORTATION AUTHORITY, MANHATTAN AND
BRONX SURFACE TRANSIT OPERATING AUTHORITY,
NEW YORK CITY TRANSIT AUTHORITY and NEW YORK
CITY DEPARTMENT OF PARKS AND RECREATION,

Defendants.

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INDEX NO. 157592/2025
MOTION DATE 03/05/2026
MOTION SEQ. NO. 001

DECISION + ORDER ON
MOTION

The following e-filed documents, listed by NYSCEF document numbers (Motion 001) 15-29, 31-50
were read on this motion to/for DISMISSAL.

Upon the foregoing documents, it is ORDERED that the motion by defendants
Metropolitan Transportation Authority, Manhattan and Bronx Surface Transit Operating
Authority and New York City Transit Authority, (collectively, the MTA Defendants), to
dismiss, having subsequently been converted to a motion for summary judgment
pursuant to this court's interim order of February 10, 2026 (NYSCEF Doc. No. 41) is
GRANTED, and the complaint is severed and dismissed as against the MTA
Defendants, with costs and disbursements to these defendants as taxed by the Clerk
upon submission of an appropriate bill of costs; and all cross-claims by and against the
MTA Defendants are dismissed; and it is further

ORDERED that the Clerk is directed to enter judgment in favor of the MTA
Defendants accordingly; and it is further

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

ORDERED that this action is respectfully referred to the General Clerk's Office
for reassignment to a General IAS Part; and it is further

ORDERED that the status conference scheduled in the Transit Part (IAS Part 21)
for May 14, 2026 at 11:30 AM is canceled.

In this personal injury action, plaintiff Christian Valentino alleges that, on February 10, 2025, he tripped and fell while lawfully present on premises located 2460-2478 2nd Avenue in East Harlem (exhibit E in support of motion [NYSCEF Doc. No. 22], complaint ¶ 9, 37).

On this motion, MTA Defendants argue that they “have not owned, leased, controlled, operated, maintained, or had any connection to or presence at the Premises since the MTA Parties relinquished all interest and control over the Premises two years prior to Plaintiff’s claimed accident” (affirmation in support of motion [NYSCEF Doc. No. 16] ¶ 4). In support of this argument, MTA Defendants submit copies of a memorandum of understanding between themselves and the City of New York and the New York City Economic Development Corporation (collectively, City Defendants), dated March 23, 2021 (exhibit A in support of motion [NYSCEF Doc. No. 18]) and a surrender letter, dated January 31, 2023, issued by the MTA Defendants to the City Defendants pursuant the March 23, 2021 memorandum of understanding (exhibit C in support of motion [NYSCEF Doc. No. 20]).

Also, as MTA Defendants point out, in their answer, the City Defendants admit that “on or about February 10, 2025, the City of New York owned the premises located at 2460-2478 2nd Avenue, New York, New York” (exhibit G in support of motion [NYSCEF Doc. No. 24], answer by City Defendants ¶ G).

Further, after this court issued its interim order of February 10, 2026, converting this motion to summary judgment and giving the parties the opportunity to make additional submissions, the parties largely reiterated their same arguments. However, in supplemental their submissions in support of the motion, the MTA Defendants also submitted the affirmation of Fedele Rella, General Superintendent of Manhattan Road Operations, who states that since January 31, 2023, he has been “personally involved in directing Road Operations of” non-party MTA Bus Company and MTA Defendants “in the vicinity of the property formerly known as ‘126th Street Depot’ located at 2460-2478 Second Avenue, New York, New York, and its adjacent parking area” (affirmation of Fedele Rella in further support of motion [NYSCEF Doc. No. 46] ¶¶ 3-4). Referring to MTA Defendants as “Transit”, Rella further states:

“Transit vacated the 126th Street Depot and removed all of its equipment and vehicles from it on or prior to January 31, 2023.

Since January 31, 2023, all Transit bus operations in the vicinity of the former 126<sup>th</sup> Street Depot have operated solely and exclusively on public roadways, outside the former 126<sup>th</sup> Street Depot and its parking lot. Transit has not performed any operations within the former 126<sup>th</sup> Street Depot or its parking lot since prior to January 31, 2023” (*id.* ¶¶ 5-6)

Thus, MTA Defendants have submitted evidence to “conclusively refute” that, at the time of the accident, MTA Defendants had “any role in the ownership, control, or maintenance of the premises where plaintiff was allegedly injured” (*Ortiz v City of New*

York, 225 AD3d 451, 451 [1st Dept 2024] [emendation omitted]). Thus, MTA Defendants have established prima facie entitlement to the dismissal of the causes of action against them for common law negligence and pursuant to Labor Law 200 and 241 (6), as these documents establish that MTA Defendants had no duty to plaintiff to protect him from his slip-and-fall injury. Thus, the burden shifts to plaintiff “to produce evidentiary proof sufficient to establish the existence of material issues of fact” (*Ferluckaj v Goldman Sachs & Co.*, 12 NY3d 316, 320 [2009] [internal quotation marks, emendation and citation omitted])

In opposition, plaintiff submits his own affidavit (exhibit D in support [NYSCEF Doc. No. 35]) and some Google Maps photos (exhibit D in support [NYSCEF Doc. No. 35]) to establish that there were buses with “MTA’ decals” being operated in proximity to the premises where plaintiff slipped and fell (plaintiff’s affidavit ¶ 4; see also plaintiff’s exhibit F in further opposition to motion [NYSCEF Doc. No. 49], additional Google Maps photo)). However, plaintiff fails to explain how the presence of such buses near the premises refutes the showing that MTA Defendants had previously relinquished any ownership, control, or maintenance of the premises where plaintiff was allegedly injured, or how such proximity of the buses could have played a substantial factor in the happening of the accident.

Likewise, while plaintiff argues that argues that “further discovery is necessary to determine the Transit Defendants’ connection to the subject premises” (supplemental affirmation in opposition [NYSCEF Doc. No. 48] ¶ 4), plaintiff’s “mere hope or speculation that evidence sufficient to defeat a motion for summary judgment may be uncovered during the discovery process is insufficient to deny the motion” (*Fisher v City of New York*, 247 NYS3d 735, 737 [2d Dept 2026]). Therefore, MTA Defendants’ motion is granted.

Because the MTA Defendants can no longer be held liable to plaintiff, the City’s cross-claims that sound in common-law indemnification and contribution are dismissed by operation of law (see *Stone v Williams*, 64 NY2d 639, 642 [1984] [the conclusion that a defendant is not liable to plaintiff necessarily defeats the cross-claims for indemnification and contribution asserted by co-defendants]; 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 MTA Defendants’ own cross-claims for common-law indemnification and contribution against the other co-defendants are dismissed as academic (*Rogers v Rockefeller Group Intl., Inc.*, 38 AD3d 747, 750 [2d Dept 2007]).

Because there are no remaining claims or cross-claims against the MTA Defendants, this personal injury action is transferred to a General Part, as the City

Defendants are represented by outside counsel.

**ENTER:**



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<u>4/6/2026</u> DATE					<u>RICHARD TSAI, J.S.C.</u>		
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED		<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	<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