

Murray v Owens

2026 NY Slip Op 31842(U)

April 27, 2026

Supreme Court, New York County

Docket Number: Index No. 154354/2018

Judge: Richard Tsai

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. RICHARD TSAI PART 21

Justice

-----X

TIFFANY MURRAY,

Plaintiff,

- v -

DARREN OWENS, NEW YORK CITY TRANSIT
AUTHORITY, MTA & MTA BUS COMPANY,
CHRISTOPHER M. REYES and LUX CREDIT
CONSULTANTS LLC,

Defendants.

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INDEX NO. 154354/2018

MOTION DATE 3/12/2025

MOTION SEQ. NO. 004

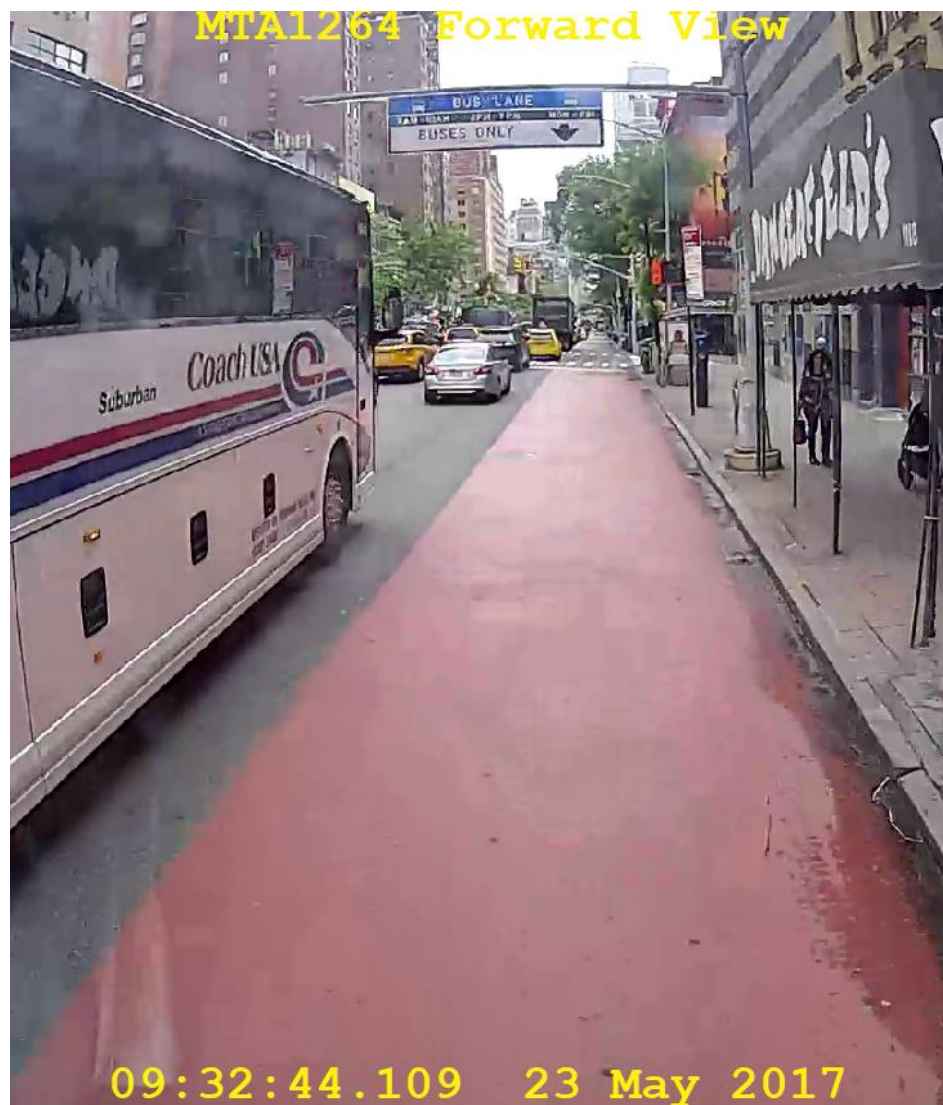
**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document numbers (Motion 004) 73-91
were read on this motion to/for JUDGMENT - SUMMARY.

In this action, plaintiff Tiffany Murray alleges that, on May 23, 2017 at approximately 9:25 a.m., she was a passenger on a bus operated by defendant Darren Owens and owned by the defendants New York City Transit Authority, MTA and MTA Bus Company (collectively, "the Transit Defendants"), which came into contact with a Nissan sedan operated by Christopher M. Reyes and owned by Lux Credit Consultants LLC (collectively, the Nissan Defendants) near the intersection of east 62nd Street and 1st Avenue in Manhattan.

On this motion, the Transit Defendants move for summary judgment on the grounds that video of the subject accident unequivocally establishes that the accident was proximately caused by the Nissan Defendants' vehicle abruptly turning into the bus's lane with no time for the Transit Defendants to react. Plaintiff submits papers in opposition to the motion, and the Nissan Defendants submit no papers on this motion.

Viewing the submitted video footage, at the 9:32:44 a.m. timestamp, the forward-facing camera on the bus shows the bus traveling northbound on 1st Avenue, in the right-most lane, which Owens testified was the bus lane, and the Nissan Defendants' vehicle can be seen in the lane to the left approaching the intersection:



(exhibit A in support of motion [NYSCEF Doc. No. 75], placeholder for video submission; see also exhibit E in support of motion [NYSCEF Doc. No. 79], Owens EBT tr at 17, line 3 through 18, line 14 [testifying that bus was traveling northbound on 1st Avenue before the accident and that he was traveling in the bus lane for two to three blocks before the accident]).

Seconds later, at the 9:32:48 a.m. timestamp, both the Nissan Defendants' vehicle and the bus are about to enter the intersection. The turn signal on the Nissan Defendants' vehicle is not activated:



Roughly one second later, at the 9:32:49 a.m. timestamp, the Nissan Defendants' vehicle starts to turn right, directly in front of the bus:



In the next second, the vehicles appear to have made contact in the intersection, with debris flying in front of the bus's forward-facing camera:



Under these circumstances, Owens, who was operating the bus, was “entitled to assume” that Reyes, the operator of the Nissan, “would obey the traffic laws and not move into the [Owens’s] lane before it was safe to do so” (*Paulino v Guzman*, 85 AD3d 631, 632 [1st Dept 2011]). Because Owens had little more than one second to react to the Nissan’s abrupt turn into his lane, the Transit Defendants have established their prima facie entitlement to summary judgment (*Eltosam v Darling Ingredients Inc.*, 235 AD3d 404 [1st Dept 2025] [“a driver with the right of way who has only seconds to react to a failure to yield is not comparatively at fault”]).

In opposition, plaintiff generally argues that this motion for summary judgment should be denied because the Transit Defendants “failed to see what was to be seen on the road and since questions of fact exist as to whether [the Transit Defendants], reacted reasonably in failing to take reasonable steps to avoid the impact and his actions as well as inactions contributed to the accident” (affirmation in opposition to motion [NYSCEF Doc. No. 86] ¶ 26). Somewhat more specifically plaintiff asserts:

“The bus can see the REYES vehicle driving to his left slowly in the far-right moving lane of traffic from 08:32:44 and slowing at the intersection, beginning to execute a right hand turn onto East 62nd Street. The bus, as evidenced in the video, doesn't slow down at the intersection or at any point until after the impact. Also evidenced by the video OWENS should have seen the REYES vehicle begin to angle towards the right as he approached the intersection and struck the REYES vehicle. Defendants OWENS should have seen what was there to be seen and should have anticipated that REYES would have turned right from the right most lane at the intersection, but Defendant OWENS, just plowed through the intersection never slowing the bus or observing the actions of the REYES vehicle which were clear for OWENS to observe” (*id.* ¶ 18).

Contrary to plaintiff's argument, there was insufficient time for Owens to prevent the accident. The video clearly shows that the Nissan Defendants' vehicle first begins to turn into the bus lane in front of Owens's vehicle at 9:32:49, roughly one second before the collision. As mentioned above, the law is clear that the Transit Defendants cannot be held liable for any supposed failure by Owens to react in this short timeframe (*Eltosam*, 235 AD3d at 404). Moreover, the video conclusively refutes plaintiff's argument that Owens should have anticipated that the Nissan Defendants' vehicle would turn into Owens's lane. As shown in the video, at 9:32:48, the Nissan Defendants' vehicle was traveling forward in the lane to the left of the bus, without any movement to the right or use of a turn signal to indicate an intent to turn right or to move into Owens's dedicated bus lane.

To the extent that plaintiff argues that the bus should have slowed down at the intersection, or that it was improper for the bus to be “going 18 mph, in the intersection” (affirmation in opposition ¶ 12), this is unavailing. Owens' testimony, and the video footage, established that the bus was traveling at 18 mph at the time of the accident, which was under the posted speed limit of 25 mph (Owens EBT tr at 18, lines 11-24, at 34, line 17 through 35, line 12; *see also Rose v Leberth*, 128 AD3d 1492, 1493 [4th Dept 2015] [affirming grant of summary judgment in favor of defendant driver who “established that she was traveling at or below the posted speed limit” and was entitled to anticipate that plaintiff would obey the traffic law requiring plaintiff to yield]). Likewise, plaintiff provides no reason for Owens to have slowed down as he approached intersection. The traffic signal was in Owens's favor, Owens was traveling in a dedicated bus lane, and there was no risk of collision from cross traffic.

Therefore, summary judgment is granted dismissing the action as against Owens. Because Owens is not negligent, as a matter of law, plaintiff's claims against the other Transit Defendants, which are based on vicarious liability, are dismissed.

Because the Transit Defendants can no longer be held liable to plaintiff, the 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 Transit 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]).

CONCLUSION

Accordingly, upon the foregoing documents, it is hereby **ORDERED** that the motion for summary judgment by defendants Darren Owens, New York City Transit Authority (NYCTA), MTA & MTA Bus Company (collectively, "the Transit Defendants") is **GRANTED**, and the complaint is severed and dismissed as against the Transit 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 Transit Defendants are dismissed; and it is further

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

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

ORDERED that, within 60 days after entry of this decision and order, counsel for Transit Defendants is directed to retrieve the compact disc containing video footage from IAS Part 21, 80 Centre Street Room 280, and said counsel is directed to preserve the video footage intact, pending the outcome of any appeal of this decision and order, or if no appeal is taken, until after the time to appeal from this decision and order has expired.¹

ENTER:



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4/27/2026

DATE

RICHARD TSAI, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE

¹ If the video footage is not retrieved within 60 days after entry of this decision, court staff may then discard any unretrieved video footage.