

Ramjattan v Metropolitan Transp. Auth. Bus Co.

2026 NY Slip Op 31946(U)

March 17, 2025

Supreme Court, Queens County

Docket Number: Index No. 706597/2020

Judge: Chereé A. Buggs

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Short Form Order

NEW YORK SUPREME COURT-QUEENS COUNTY

Present: **HONORABLE CHEREÉ A. BUGGS**
Justice

IAS PART 30

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SAMDAI RAMJATTAN,

Index No.:706597/2020

Motion Date: 12/27/2025

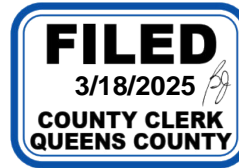
Plaintiff,

Motion Cal. No.: 37

Motion Sequence No.: 3

-against-

METROPOLITAN TRANSPORTATION
AUTHORITY BUS COMPANY, CITY OF
NEW YORK and JANE DOE (bus driver)



Defendants.

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The following e-file papers numbered EF 52-62 and 68-75 submitted and considered on this motion by defendants MTA BUS COMPANY s/h/a METROPOLITAN TRANSPORTATION AUTHORITY BUS COMPANY (hereinafter “MTA”), seeking an order granting partial summary judgment pursuant to CPLR 3212, dismissing plaintiff’s, SAMDAI RAMJATTAN (hereinafter referred to as “Plaintiff”) claims of injury apart from her fracture as those injuries have not satisfied the serious injury threshold set forth in New York State Insurance Law § 5102(d) along with such other and further relief as this Court may deem just, proper and equitable under the circumstances.

Papers
Numbered

Notice of Motion-Affirmation in Support-Affidavits-Exhibits.....	EF 52-62
Affirmation in Opposition-Affidavits-Exhibits.....	EF 68-72
Reply Affirmation.....	EF 73-75

Relevant Facts and Procedural Background

This case arises from a motor vehicle incident that occurred on May 4, 2019, involving

Plaintiff, who was a passenger on MTA bus #7447, driven by Shelly Ann Barllete. The incident took place on the eastbound Grand Central Parkway, approaching Exit 4, in Queens, New York, at approximately 6:30 p.m. The bus, operated by Barllete, was traveling in the right lane when it reportedly came to a sudden and abrupt stop. Plaintiff claims that this unexpected stop caused her, along with several other passengers, to be violently thrown forward. According to Plaintiff, she was propelled into the front interior of the bus and subsequently struck by other passengers who were also impacted by the sudden stop. As a result, she alleges she sustained serious injuries requiring multiple injuries.

Now, MTA seeks an Order pursuant to CPLR 3212 granting partial summary judgment against Plaintiff, asserting that aside from a fracture Plaintiff has failed to meet the serious injury threshold requirement mandated by Insurance Law § 5102(d) for her remaining injuries. In support of their motion, MTA relies upon the pleadings, bills of particulars, depositions, and IMEs performed on Plaintiff by Dr. Marianna Golden a board-certified neurologist, Dr. Ernesto Seldman a board-certified orthopedic surgeon; and Dr. Bonnie Vader a board certified podiatrist. All examining physicians reviewed the bill of particulars, Plaintiff's X-ray reports, Plaintiff's MRI reports and medical records from Action Sports Medicine and Pain Management, and Plaintiff's discovery responses including expert disclosures.

Bill of Particulars/ Complaint

In her verified bill of particulars, Plaintiff claims the following injuries: derangement of the left upper extremity and scapular thoracic joint associated vertebrae with tenderness of the left humeral head and epicondylar process; aggravation of degenerative disc disease of lumbosacral spine; multiple herniations of cervical intervertebral discs; derangement of the right ankle with tenosynovitis with focal tendinitis and interstitial tear; posterior tibial tenosynovitis with inframalleolar tendinopathy; tarsal tunnel syndrome; effusion to right tibiotalar joint with edema; plantar fasciitis with central cord extending to calcaneal insertion with underlying enthesopathy and reactive osteitis; bilateral shoulder impingements with positive Neer's and Hawkins signs; derangement of left knee; tears of the posterior horn of medial and lateral menisci; distal rupture of the lateral collateral ligament; tear of medial collateral ligament; peripatellar injury to right knee; sprained ligaments of the thoracic spine; avulsion fracture of right distal fibula; disruption of the collateral lateral right ankle ligament; and acute posttraumatic headache with vertigo. Plaintiff further contends she was confined to bed from May 4, 2019 to June 16, 2019 and confined to home until July 28, 2019.

Within the Complaint, Plaintiff contends that she suffered a serious injury as defined by Insurance Law §5102 as she alleges she suffered a "serious disfigurement and/or was caused to be substantially incapacitated from performing most of her usual and customary activities for 90 out of the first 180 days following the occurrence; and/or was caused to sustain a permanent loss of a bodily organ, function or system; and/or permanent consequential limitation of the use of a bodily organ or member; and/or significant limitation of the use of a bodily function or system."

Independent Medical Examination Report of Dr. Bonnie Vader (October 26, 2022)

Plaintiff presented with complaints of problems with her left ankle. Specifically, Plaintiff reported swelling in her left ankle and pain when she walks and stands for long periods. Plaintiff conceded that her right ankle is much improved post-surgery.

Dr. Vader found that vascular examination was within normal limits and pedal pulses were 2/4 bilaterally. Well healed surgical scars were observed anterior to the medial and lateral malleolus and a 2 cm curvilinear scar over the lateral malleolus. Range of motion testing was performed on the bilateral ankles using a goniometer and Dr. Vader recorded the following values:

Left dorsiflexion: 15 degrees (10-15 degrees normal); right dorsiflexion: 15 degrees (10-15 degrees normal); left plantar flexion: 50 degrees (50-70 degrees normal); right plantar flexion: 50 degrees (50-70 degrees normal); eversion: 10 degrees (10 degrees normal); and inversion: 40 degrees (40 degrees normal).

During orthopedic evaluation the Plaintiff reported mild pain to touch of her lateral left ankle. Ultimately, Dr. Vader opined within a reasonable degree of medical certainty that Plaintiff's right ankle sprain was healed and that her left ankle sprain is healing. Dr. Vader further opined that the Plaintiff can perform her activities of daily living without limitation and noted that the Plaintiff can continue to work full time as a flight attendant without restrictions.

Independent Medical Examination Report of Dr. Ernesto Seldman (April 16, 2022)

Plaintiff presented with complaints of radiating neck, mid-back, low-back, left shoulder, left elbow, left hip, bilateral knees, bilateral ankles and bilateral feet pain.

Dr. Seldman observed arthroscopic surgical scarring to Plaintiff's left knee and right ankle. Range of motion testing was performed using a goniometer and the values set forth in the AMA Guidelines 5th Edition. Dr. Seldman noted throughout testing that tenderness was not observed on palpation the following values were recorded:

Cervical Spine

Flexion: 50 degrees (50 degrees normal); extension: 60 degrees (60 degrees normal); right rotation: 80 degrees (80 degrees normal); left rotation: 80 degrees (80 degrees normal); left lateral flexion: 45 degrees (45 degrees normal); and right lateral flexion: 45 degrees (45 degrees normal).

Thoracic Spine

Right later bending: 45 degrees (45 degrees normal); left lateral bending: 45 degrees (45 degrees normal); right rotation: 30 degrees (30 degrees normal); left rotation: 30 degrees (30 degrees normal).

Right Shoulder/ Left Shoulder

Abduction: 180 degrees (180 degrees normal); forward flexion 180 degrees (180 degrees normal); internal rotation: 80 degrees normal (80 degrees normal); external rotation: 90 degrees (90 degrees normal). The following tests were negative: Neer's, O'Brien's, Yorgason's, Speed's, Hawkin's and Drop Arm.

Left Elbow

Flexion: 150 degrees (150 degrees normal) and external: 0 degrees (0 degrees normal). Tinel's sign was negative.

Left Wrist/Hand

Pronation (wrist): 80 degrees (80 degrees normal); supination (wrist): 80 degrees (80 degrees normal); dorsiflexion: 60 degrees (60 degrees normal); volar flexion: 60 degrees (60 degrees normal); radial deviation (wrist): 20 degrees (20 degrees normal); and ulnar deviation: 30 degrees (30 degrees normal). There was no Tinel's sign. The evaluation was negative for Phalen's sign and atrophy of the thenar muscles. Also, hand digit motion was observed to be full.

Right Knee/Left Knee

Flexion: 150 degrees (150 degrees normal) and extension: 0 degrees (0 degrees normal). The following tests were negative: McMurray, Lachman, Anterior Drawer, Pivot Shift and Posterior Drawer. Furthermore, Plaintiff was observed to be stable on valgus and varus stressing. Dr. Seldman also noted a well healed portal scar on the left knee.

Right Hip/Left Hip

Forward flexion: 100 degrees (100 degrees normal); extension: 30 degrees (30 degrees normal); abduction: 40 degrees (40 degrees normal); adduction: 20 degrees (20 degrees normal); external rotation: 50 degrees (50 degrees normal) and internal rotation: 40 degrees (40 degrees normal).

Right Ankle/Foot and Left Ankle/Foot

Dr. Seldman observed well healed scars, no soft tissue swelling and no tenderness.

Dorsiflexion: 20 degrees (20 degrees normal); plantar flexion: 40 degrees (40 degrees normal); inversion: 30 degrees (30 degrees normal); and eversion: 20 degrees (20 degrees normal).

Ultimately, Dr. Seldman opined within a reasonable degree of medical certainty that Plaintiff's cervical, thoracic, lumbar, bilateral shoulders and right knee sprain/strain are resolved. That, status-post left knee and right ankle surgery is resolved and that Plaintiff's right distal fibular avulsion fracture is clinically healed.

Independent Medical Examination Report on Dr. Marianna Golden (May 15, 2024)

Plaintiff presented with complaints of radiating neck pain and shooting lower back pain that radiates to her legs. Plaintiff also presented with complaints of cramping and tingling when walking and standing. Generally, Plaintiff also complained of pain in the bilateral shoulders, right hip, bilateral knees, bilateral ankles and bilateral feet.

Dr. Golden performed range of motion testing using a goniometer and values from the AMA Guidelines 5th edition. The values for Plaintiff's cervical spine was the same as the values that Dr. Seldman found.

As for Plaintiff's lumbar spine, Dr. Golden recorded the following values: flexion: 60 degrees (60 degrees normal); extension: 25 degrees (25 degrees normal); right lateral bend: 25 degrees (25 degrees normal); left lateral bend: 25 degrees (25 degrees normal); right rotation: 30 degrees (30 degrees normal); and left rotation: 30 degrees (30 degrees normal).

The motor exam revealed 5/5 power in the upper and lower extremity. Weakness and fasciculation was not observed and Dr. Golden found normal muscle tone and bulk.

Dr. Golden opined to a reasonable degree of medical certainty that Plaintiff's cervical, thoracic, and lumbar sprains/strains were resolved. That, from a neurological standpoint Plaintiff is not disabled and can continue work as a flight attendant and perform her activities of daily living without restriction or neurological limitation. Dr. Golden further opined that there is no objective evidence of permanency, residuals to the spine, cervical or lumbar radiculopathy.

MTA established prima facie entitlement to judgment as a matter of law that Plaintiff did not suffer a serious injury to her right ankle under the permanent consequential and permanent loss of use categories but MTA failed to establish the same as to Plaintiff's left ankle as Dr. Vader, who examined Plaintiff in 2024, opined that the left ankle was "healing" while Dr. Seldman, who examined Plaintiff in 2022, opined that it was "clinically healed". Furthermore, MTA has established prima facie entitlement to judgment as a matter of law that Plaintiff did not suffer a serious injury under the permanent consequential limitation and permanent loss of use categories as to her cervical spine, thoracic spine, lumbar spine, bilateral shoulders, bilateral knees and bilateral hips.

As to the 90/180 day category, the Bill of Particulars states that the Plaintiff was confined to bed from the occurrence to June 16, 2019, confined to home until July 28, 2019 and incapacitated from work until May 30, 2021 which satisfies the 90/180 day category. The MTA states this is contradicted by the following testimony taken from Plaintiff's deposition:

Q: As a result of your injuries from the accident did you miss time from work?

A: Yes.

Q: How much time did you miss immediately after the accident first?

A: I think about 2 weeks, approximately.

Q: After those 2 weeks, did you return to work with the same type of schedule?

A: Yes, I tried a three-day trip that I had to see if I could manage.

Q: How did that go?

A: No too well.

Q: Did you then miss more time after that three-day trip?

A: Yes.

Q: When did you next return to work?

A: My return to work was towards the end of November?

Q: Would that three-day trip have been in May, May or June of 2019 after the accident?

A: It was in May, I believe around May 19th.

Q: So then after that three-day trip you were out of work from May 20 something until November, right?

A: Correct.

(EF 57 pg 18-19 lines 11-25 and 2-12)

Thereafter, according to the MTA following the deposition the Plaintiff served an Amended Bill of Particulars with regard to the 90/180 day category, it states:

23. Plaintiff suffered injuries listed in paragraph 8, *supra*. As a result of the injuries sustained, and subsequent treatment, the Plaintiff missed approximately six to six and a half months from work, spanning from the week of the incident to approximately December 2019, at which point Plaintiff returned to work on a full-time basis. Prior to returning to work full-time, Plaintiff had made attempts to return to work and found herself unable to perform her duties, experiencing limited mobility and extreme pain when attempting to perform her work functions as a flight attendant...

Thus, the MTA contends that the case law supports a finding that Plaintiff's return to work within the first ninety (90) days following an accident will defeat any claims of injury under the 90/180 days category. In support of this contention, the MTA points to *Bamundo v Fiero* (88 AD3d 831 [2d Dept 2011]) where the court found that the defendants established that the plaintiff did not suffer a serious injury under the 90/180 day category by pointing to plaintiff's deposition "which revealed that the he missed only seven days of work in the first 180 days following the subject accident" (*id*).

Here, the facts are distinguishable. Plaintiff's deposition testimony and bills of particulars establish that despite returning to work for 3 days, two weeks following the accident, following that trip Plaintiff repeatedly represented that she was unable to return again until either November or December of 2019. The 90 days do not need to be consecutive but they must occur within the first 180 days following the incident.

Thus, MTA has not established *prima facie* entitlement to judgment as a matter of law that Plaintiff has not suffered a serious injury as to the 90/180 day category.

As to the significant limitation of use category, the MTA has failed to establish entitlement to judgment as a matter of law. The independent medical examinations that the MTA relies upon occurred years after the accident and the MTA's experts failed to provide a non-traumatic etiology for the Plaintiff's injuries despite reviewing Plaintiff's medical records, including the X-ray and MRIs. In light of Plaintiff's representations as to her limitations and pain following the accident, the MTA has failed to fulfill its burden as to the significant limitation of use category.

As to the serious disfigurement category, all of the medical providers acknowledged that Plaintiff has post-surgical scarring. “For an injury to constitute a significant disfigurement within the meaning of Insurance Law § 5102(d), a ‘reasonable person viewing’ the injury would have to ‘regard’ it as ‘unattractive’ or ‘objectionable,’ or as ‘the object of pity’ or ‘scorn,’ and the disfigurement must also be causally related to the subject accident” (citing *Knight v M & M Sanitation Corp.*, 122 AD3d 683, 684 [2d Dept 2014][citation omitted]). There were no photos and no descriptions of the scars provided such that the Court could render a decision regarding the same. Therefore, this issue will remain an issue for trial.

Law and Application

CPLR §3212 provides:

(a) Time; kind of action. Any party may move for summary judgment in any action, after issue has been joined; provided however, that the court may set a date after which no such motion may be made, such date being no earlier than thirty days after the filing of the note of issue. If no such date is set by the court, such motion shall be made no later than one hundred twenty days after the filing of the note of issue, except with leave of court on good cause shown.

(b) Supporting proof; grounds; relief to either party. A motion for summary judgment shall be supported by affidavit, by a copy of the pleadings and by other available proof, such as depositions and written admissions. The affidavit shall be by a person having knowledge of the facts; it shall recite all the material facts; and it shall show that there is no defense to the cause of action or that the cause of action or defense has no merit. Where an expert affidavit is submitted in support of, or opposition to, a motion for summary judgment, the court shall not decline to consider the affidavit because an expert exchange pursuant to subparagraph (i) of paragraph (1) of subdivision (d) of section 3101 was not furnished prior to the submission of the affidavit. The motion shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party. Except as provided in subdivision (c) of this rule the motion shall be denied if any party shall show facts sufficient to require a trial of any issue of fact. If it shall appear that any party other than the moving party is entitled to a summary judgment, the court may grant such judgment without the necessity of a cross-motion...

(c) Immediate trial. If it appears that the only triable issues of fact arising on a motion for summary judgment relate to the amount or extent of damages, or if the motion is based on any of the grounds enumerated in subdivision (a) or (b) of rule 3211, the court may, when appropriate for the expeditious disposition of the controversy, order an immediate trial of such issues of fact raised by the motion, before a referee, before the court, or before the court and a jury, whichever may be proper.

Insurance Law § 5102 provides:

“Serious injury” means a personal injury which results in death; dismemberment; significant disfigurement; a fracture; loss of a fetus; permanent loss of use of a body organ, member, function or system; permanent consequential limitation of use of a body organ or member; significant limitation of use of a body function or system; or a medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute such person's usual and customary daily activities for not less than ninety days during the one hundred eighty days immediately following the occurrence of the injury or impairment.

“The movant must make a prima-facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact” (*see Bazdaric v Almah Partners LLC*, 41 NY3d 310, 316 [2024]; citing *Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). Summary judgment is a drastic measure that deprives a litigant of his or her day in court, and it should only be employed when there is no doubt as to the absence of triable issues (*see 114 Woodbury Realty, LLC v 10 Bethpage Rd., LLC*, 178 AD3d 757, 759 [2d Dept 2019]; *Castlepoint Ins. Co. v Command Sec. Corp.*, 144 AD3d 731, 733 [2d Dept 2016]; *Doize v. Holiday Inn Ronkonkoma*, 6 A.D.3d 573, 774 N.Y.S.2d 792 [2nd Dept. 2004]). “On a motion for summary judgment, facts must be viewed ‘in the light most favorable to the non-moving party’” (*see Bazdaric v Almah Partners LLC*, 41 NY3d 310, 316 [2024]; citing *Vega v Restani Const. Corp.*, 18 NY3d 499, 503 [2012]; quoting *Ortiz v Varsity Holdings, LLC*, 18 NY3d at 335 [2011]; *see also Moonilal v R.C. Church of St. Mary Gate of Heaven*, 225 AD3d 592, 593 [2d Dept 2024]).

In light of the above, the burden now shifts to the Plaintiff to raise an issue of fact as to whether she suffered a serious injury under the permanent loss of use of a body organ, member, function or system or permanent consequential limitation categories.

Report of Sanjeev Agarwal dated December 18, 2024

Dr. Agarwal who is board certified in pain and sports medicine, evaluated the Plaintiff and reported his findings in a report dated December 18, 2024. Plaintiff presented with the following complaints: 6 to 7 out of 10 pain to upper back, lower back, and neck; 6 out of 10 pain to the right shoulder and difficulty with overhead activity; 5 to 6 out of 10 pain in the bilateral wrist/hand; 6 to 7 out of 10 pain to the bilateral hips; 6 to 7 out of 10 pain to the bilateral knees; and 5 to 6 out of 10 pain to the ankle/foot. Plaintiff further reported tingling in both feet when she sits that worsens towards the end of the day. That, the pain effects her sleep and causes difficulty while lifting objects, standing for extended periods, bending, reaching, driving and while performing physical labor. However, Plaintiff conceded that she has experienced some improvement since onset. Plaintiff further reported that she was given a special assignment with light duty at work due to her ongoing symptoms.

Range of motion testing was performed using a handheld goniometer and normal values were based on guidelines set by New York State Division of Disability Determination, American Medical Association and Worker's Compensation Board. Dr. Agarwal recorded the following values:

Cervical Spine

Dr. Agarwal noted mild tenderness with multiple trigger points and a negative spurling test. Flexion: 45 degrees (50 degrees is normal); extension: 55 degrees (60 degrees normal); lateral flexion bilaterally: 40 degrees (45 degrees normal).

Lumbar Spine

Dr. Agarwal observed bilateral sacroiliac joint tenderness but the straight leg raise was negative bilaterally. Flexion: 80 degrees (90 degrees normal); extension: 25 degrees (25 degrees normal); lateral flexion bilateral 25 degrees (25 degrees normal).

Right Shoulder

Dr. Agarwal observed tenderness at the AC joint. Forward flexion: 170 degrees (180 degrees normal); internal rotation: 65 degrees (70 degrees normal); external rotation: 80 degrees (90 degrees normal).

Right Elbow

Dr. Agarwal observed full pain free active range of motion in the right elbow.

Bilateral Knees

While Dr. Agarwal observed medical joint line tenderness, range of motion was to 130 degrees and special tests were negative.

Bilateral Ankles

Dr. Agarwal noted mild swelling on the right side and slight discomfort on the outer aspect of the right ankle. Dr. Agarwal also noted that the arthroscopic portals were clean, dry and intact.

Dorsiflexion: 15 degrees (20 degrees normal) and plantar flexion: 35 degrees (40 degrees normal).

Finally, Plaintiff displayed 5/5 muscle strength. However, she reported that strength testing was hard to sustain.

Within the report, Dr. Agarwal provided a synopsis of the treatment Plaintiff received, for the subject body parts, with prior providers and Plaintiff's radiological studies. As a result of his evaluation of the Plaintiff and his review of her medical records, Dr. Agarwal opined that the "sudden violent and forceful impact" of the accident "exerted tremendous pressure to the structural integrity of the nucleus pulposus, annulus fibrosis and facet joints of the cervical lumbar spine resulting in multiple disc herniations" and these findings explain the pain that Plaintiff experiences in her neck, cervical and lumbar spine. Additionally, Dr. Agarwal noted that range of motion testing has consistently revealed decreases in the range of motion of Plaintiff's cervical spine, lumbar spine, right shoulder, and bilateral ankles. While Dr. Agarwal also notes that range of motion testing has consistently revealed decreases in the range of motion of Plaintiff's bilateral knees and bilateral wrists, he did not measure the range of motion in Plaintiff's bilateral wrists and did not provide a normal value for the range of motion in Plaintiff bilateral knees.

Dr. Agarwal further opined that the trauma Plaintiff experienced to her neck, back, right shoulder, knees and ankles caused by the subject accident are being healed "by way of scar tissue formation, which is less elastic and less functional than the original tissues they replaced. This serves to reduce joint motion, as well as result in the formation of fibrosis and lack of normal movement of the nerve root within the intervertebral foramen, thus causing subsequent irritation of the involved neural structures and resulting pain and paresthesia." He further noted that the absence of trauma to the subject body parts prior to the subject accident indicates that the disc pathologies and nerve injuries did not pre-exist the subject accident but are attributed to the same. Therefore, Dr. Agarwal opined that the changes are permanent and Plaintiff's "disability is partial, permanent and has resulted in chronic pain with progressive remission and exacerbation during over use [sic]" of the subject body parts.

Despite the same, Plaintiff has failed to raise a material issue of fact as to whether she suffered a serious injury under the permanent loss of use and permanent consequential categories as to her neck, lumbar spine, cervical spine, right shoulder, right elbow, and right ankle/foot. The affirmation of Dr. Agarwal fails to indicate when he performed the evaluation on the Plaintiff. Plaintiff was evaluated by Dr. Golden on May 15, 2024 and by Dr. Vader and Dr. Seldman in 2022 and these medical providers opined that Plaintiff's sprains and strains are healed. Thus, it was important for Plaintiff to present medical findings subsequent to or temporally close to those time frames to establish a triable issue of fact. Notwithstanding, as Dr. Agarwal failed to provide normal values as to Plaintiff's bilateral knees and failed to test Plaintiff's bilateral wrists, Plaintiff has failed to raise an issue of fact as to whether she suffered a serious injury under the permanent consequential and permanent loss of use categories as to those body parts regardless of the date of the exam. Therefore it is,


ORDERED, that the branch of the MTA’s motion seeking to dismiss Plaintiff’s claim that she suffered a serious injury is **denied** as to the 90/180 category, significant limitation of use category; and as to permanent loss of use and permanent consequential categories as to Plaintiff’s left ankle; and it is further

ORDERED, that both parties failed to opine on the significant disfigurement category thus that will remain an issue for trial; and it is further

ORDERED; that the branch of the MTA’s motion seeking to dismiss Plaintiff’s claim that she suffered a serious injury is **granted** as to permanent consequential and permanent loss of use categories (except for the left ankle) as Dr. Agarwal’s report was defective in failing to establish when his evaluation of the Plaintiff occurred.

This constitutes the decision and Order of the Court.

Dated: March 17, 2025



Hon. Chereé A. Buggs, JSC

