

Monaco v New York City Tr. Auth.

2026 NY Slip Op 32002(U)

May 8, 2026

Supreme Court, New York County

Docket Number: Index No. 159740/2024

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

MICHELLE MONACO,

Plaintiff,

- v -

THE NEW YORK CITY TRANSIT AUTHORITY, ACCESS-A-RIDE, AGAPE TRANSPORTATION INC., and THE METROPOLITAN TRANSPORTATION AUTHORITY,

Defendants.

-----X

INDEX NO. 159740/2024
MOTION DATE 11/14/2025
MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document numbers (Motion 003) 1, 29, 36, 38-55 were read on this motion to/for and cross-motion for

RENEWAL
LEAVE TO AMEND

Upon the foregoing documents, it is **ORDERED** that defendants New York City Transit Authority, Access-A-Ride, and Metropolitan Transportation Authority’s motion to renew and reargue this court’s decision and order dated and entered October 16, 2025 (NYSCEF Doc. No. 36) is **GRANTED TO THE EXTENT THAT** renewal is granted, and upon renewal, defendants New York City Transit Authority, Access-A-Ride, and the Metropolitan Transportation Authority are granted summary judgment dismissing the complaint as against them, and all cross-claims by and against these defendants are dismissed, with costs and disbursements to these defendants upon submission of an appropriate bill of costs; and it is further

ORDERED that the Clerk is directed to enter judgment in favor of defendants New York City Transit Authority, Access-A-Ride, and the Metropolitan Transportation Authority accordingly; and it is further

ORDERED that the action is severed as to the remaining defendant, Agape Transportation Inc. and shall continue; and it is further

ORDERED that plaintiff’s cross-motion for leave to amend the complaint is **GRANTED** without opposition; and it is further

ORDERED that a supplemental summons and verified amended complaint, the latter being in the form annexed to the cross-motion papers as Exhibit A (NYSCEF Doc. No. 55), shall be served, in accordance with the Civil Practice Law and Rules, upon the additional parties within 30 days after service of a copy of this order with notice of entry; and it is further

ORDERED that the caption is amended to read as follows:

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

-----X
MICHELLE MONACO,

Plaintiff,

-against-

AGAPE LUXURY CORP., d/b/a AGAPE
TRANSPORTATION MANAGEMENT and PATHE
WILANE,

Defendants.
-----X

and it is further

ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk and the Clerk of the General Clerk's Office, who are directed to amend their records to reflect such change in the caption herein; and it is further

ORDERED that service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in Section J of the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* <https://www.nycourts.gov/LegacyPDFS/courts/1jd/suptctmanh/Efil-protocol.pdf>¹; and it is further

ORDERED this case is transferred to the Motor Vehicle Part (Part 22), and the preliminary conference scheduled on July 16, 2026 in Part 21 is canceled.

¹ Pursuant to Section J, in order for the Clerk of the General Clerk's Office to effectuate this order, the movant must e-file a copy of the order "using the **NYSCEF document type 'Service on Supreme Court Clerk (Genl. Clerk) w/Copy of Order'**" and the filer must provide "as additional information (in the 'Additional Document Information' field) a brief description of the type of order being submitted (e.g., 'Order of Consolidation' . . .) (emphasis added).

Plaintiff's counsel must select the correct document type to ensure that the order will be delivered electronically to the General Clerk's To-Do list.

Likewise, pursuant Section J, in order for the County Clerk to effectuate this order, the movant must serve a copy of this order on the County Clerk "by filing with NYSCEF a completed Notice to the County Clerk - CPLR § 8019 (c) (NYSCEF Form EF-22, available on the NYSCEF site)" (*id.*)

According to the complaint, on July 27, 2023, at approximately 11:10 a.m., “plaintiff was caused to violently fall to the ground” while attempting to “step down from an inappropriately sized and heightened vehicle and was declined requested assistance from the operator of the subject vehicle to safely alight from said vehicle” (complaint [NYSCEF Doc. No. 1] ¶¶ 24 – 25).

By a decision and order dated and entered October 16, 2025, this court denied the motion for summary judgment by defendants New York City Transit Authority, Access-A-Ride, and Metropolitan Transportation Authority (collectively, the Transit Defendants) (see NYSCEF Doc. No. 36). The Transit Defendants had asserted that, based on the trip id for plaintiff’s trip, the Transit Defendants were not the registered owners of the subject vehicle, nor was the operator, identified as Pathe Wilane, employed by Transit Defendants. However, the court reasoned, among other things, that it was difficult to ascertain the reliability of the information upon which the knowledge of the affiant was based.

Renewal is granted without opposition. The Transit Defendants have now submitted an affirmation from Nadya Reinoso (NYSCEF Doc. No. 40), who included a printout of a trip report on July 27, 2023, bearing the Trip ID and Client ID associated with plaintiff, and business records of a trip history based on that Client ID (see Exhibits 3 & 4 in support of motion [NYSCEF Doc. Nos. 44-45]). The Trip History Report indicates that Agape was scheduled to pick up plaintiff on July 27, 2023 at 10:59 a.m., and it appears to indicate that the driver (whose name appears below the icon of a steering wheel) was Pathe Wilane (see Exhibit 3 in support of motion).

Upon renewal, the Transit Defendants are granted summary judgment dismissing the action as against them. The branch of the Transit Defendants’ motion for reargument is denied as academic.

Because the Transit Defendants can no longer be held liable to plaintiff, 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]).²

Plaintiff’s cross-motion for leave to amend the complaint to add Agape Luxury Corp. d/b/a Agape Transportation Management and Pathe Wilane as defendants, and to amend the caption to reflect the dismissal of the Transit Defendants from this action and de facto discontinuance of the action as to defendant Agape Transportation Inc., is granted without opposition.

As the Transit Defendants are no longer parties to this action, and the amended

² The Transit Defendants’ answer purported to asserted a cross-claim against Ebelio Contrera, who is not named as a defendant in this action (see NYSCEF Doc. No. 29).

complaint alleges that plaintiff sustained serious injuries as defined under Insurance Law § 5102 (d), this case is transferred to the Motor Vehicle Part.

ENTER:



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<u>5/8/2026</u>			<u>RICHARD TSAI, J.S.C.</u>
DATE			
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
MOTION	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/> GRANTED IN PART
CROSS-MOTION	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> GRANTED IN PART
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"/>	DENIED	<input type="checkbox"/> OTHER
	<input type="checkbox"/>	DENIED	<input type="checkbox"/> OTHER
			<input type="checkbox"/> REFERENCE