

874 N.Y.S.2d 112

Supreme Court, Appellate Division, First Department, New York.
Saundra **CRANE**, Plaintiff–Respondent,

v.

NEW YORK CITY **TRANSIT AUTHORITY**, et al.,
Defendants–Appellants.

March 10, 2009.

Synopsis

Background: Passenger on bus brought action against city **transit authority** for personal injuries allegedly sustained due to a sudden stop by the bus. The Supreme Court, New York County, [Donna M. Mills](#), J., granted passenger summary judgment as to liability and directed assessment of damages. **Authority** appealed.

Holdings: The Supreme Court, Appellate Division, held that:

[1](#) passenger established prima facie negligence case, and
[2](#) **authority** failed to raise a triable issue of fact.

Affirmed.

West Headnotes (2) [Collapse West Headnotes](#)

[Change View](#)

[1](#) **Judgment**



[Torts](#)

On motion for summary judgment in bus passenger's negligence action against city **transit authority**, passenger established prima facie case of negligence through deposition testimony that sudden stop by bus caused a jerk or lurch that was “unusual and violent.”

[2](#) **Judgment**



Torts

Contention by city **transit authority**, submitted in opposition to bus passenger's motion for summary judgment on negligence claim asserting personal injuries sustained due to a sudden stop by bus, that bus stopped suddenly because a passenger pushed on the rear door and possibly activated bus's rear door interlock braking mechanism, was unsupported by evidence as to how mechanism worked and as to whether it was functioning properly and was operated properly by bus driver at the time and on bus, and thus, failed to raise triable issue of fact as to negligence of **authority**.

Attorneys and Law Firms

***113** [Wallace D. Gossett](#), Brooklyn ([Lawrence Heisler](#) of counsel), for appellants.

Roth & Roth, Garden City ([Lisa M. Comeau](#) of counsel), for respondent.

[MAZZARELLI](#), J.P., [SAXE](#), [NARDELLI](#), [DeGRASSE](#), [FREEDMAN](#), JJ.

Opinion

Order, Supreme Court, New York County (Donna M. Mills, J.), entered March 14, 2008, which granted plaintiff's motion for partial summary judgment as to liability and directed an assessment of damages, unanimously affirmed, without costs.

Plaintiff was injured on December 19, 2003, when defendants' bus, on which she was a passenger, allegedly came to a sudden, violent stop near 34th Street and Fifth Avenue. Plaintiff sustained a head injury and a broken clavicle.

12Plaintiff established a prima facie case of negligence with deposition testimony that the sudden stop caused a jerk or lurch that was “unusual and violent” (see [Urquhart v. New York City Tr. Auth.](#), [85 N.Y.2d 828, 829–30, 623 N.Y.S.2d 838, 647 N.E.2d 1346 \[1995\]](#)). Defendants' opposition to summary judgment was insufficient to create a triable issue of fact. Their contention that the bus stopped suddenly because a passenger pushed on the rear door, possibly activating the bus's rear door interlock braking mechanism, was unsupported by evidence as to how the mechanism worked and as to whether it was functioning properly and was operated properly by the bus driver at the time and on the bus in question. We have considered defendants' remaining arguments and find them unavailing.

Parallel Citations

60 A.D.3d 467, 2009 N.Y. Slip Op. 01718