

**Negron v Damann**

2024 NY Slip Op 34370(U)

December 6, 2024

Supreme Court, Kings County

Docket Number: Index No. 515004/2021

Judge: Carolyn E. Wade

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS: HON. CAROLYN E. WADE, JSC  
-----X

JASON NEGRON,

Plaintiff,

Index No. 515004/2021

- against -

**DECISION and ORDER**

BAILEY DAMANN and GLOBAL MEDICAL  
RESPONSE, INC.,

Mot. Seq. 002

Defendants.  
-----X

Recitation, as required by CPLR 2219 (a), of the electronic papers considered in the review of Plaintiff Jason Negron’s (“Plaintiff”) for summary judgment and other relief:

Notice of Motion, Affirmation in Support, and Exhibits Annexed:	NYSCEF #23-28
Affirmation in Opposition and Exhibits Annexed:	NYSCEF #31-21
Reply Affirmation:	NYSCEF #33-34
Proposed Orders	NYSCEF# 35-36

Upon the foregoing papers, and after oral argument, Plaintiff Jason Negron’s (“Plaintiff”) motion for an order: (a) granting Plaintiff partial summary judgment against Defendants Bailey Damann (“Damann”) and Global Medical Response, Inc. (“Global Medical”) (collectively, (“Defendants”)) on the issue of liability, (b) dismissing Defendants’ affirmative defenses alleging comparative negligence, contributory negligence and culpable conduct of Plaintiff, and (c) upon granting summary judgment, setting this action down for a trial on the assessment of damages as against said defendant, is **DENIED**.

**Background**

Plaintiff commenced this action to recover damages for personal injuries that he allegedly sustained on April 22, 2020, when an ambulance operated by Damann made contact with his vehicle near the intersection of 18<sup>th</sup> Street and 3<sup>rd</sup> Avenue in Brooklyn, New York.

At the time of the accident, Damann was traveling northbound on 3<sup>rd</sup> Avenue, while Plaintiff was traveling westbound on 18<sup>th</sup> Street. It is undisputed that the accident occurred during “daytime,” and that the weather was “sunny.”

According to Damann’s testimony, shortly before the accident, his vision became suddenly and unexpectedly impaired because there was a glare from the sun. As a result, Damann was unable to notice that the traffic light was red (Exhibit “1” at 57:11-14).

As soon as Damann realized that he had run a red light and that he was about to make contact with Plaintiff’s vehicle, he “engaged defensive maneuvers” but was unable to avoid the contact. Damann does not recall if the visor was down when the accident occurred.

#### Analysis

Since it is undisputed that Damann ran the red light, Plaintiff made a prima facie showing that Defendants violated VTL §§ 1110(a) and 1111(d).

In opposition, Defendants raised triable issues of fact as to whether the sun glare that impaired Damann’s vision constitutes a qualifying emergency. The emergency doctrine precludes liability for a driver who faces an “unexpected circumstance which [left] little or no time for thought, deliberation or consideration,” and takes action that is “reasonable and prudent in the [ . . . ] context” of the emergency at hand (*Caristo v. Sanzone*, 96 NY2d 172, 174 [2001]; *Rivera v. New York City Tr. Auth.*, 77 NY2d 322, 327 [1991]).

In *Lifson v. City of Syracuse*, the Court of Appeals expressly left open the possibility that sun glare may generate an emergency situation that would preclude liability under the emergency doctrine (17 NY3d 492, 498 [2011]). Familiarity with the general area of the accident and the direction at which the defendant was driving are relevant factors in determining whether sun glare constitutes a qualifying emergency. *Id.*

Here, Damann testified that he was not “familiar with 18th Street and 3<sup>rd</sup> Avenue,” and that he was unable to notice the color of the traffic light because his vision became suddenly and unexpectedly impaired due to sun glare. Damann further testified that he was driving northbound, that he does not recall if the visor was down at the time of the accident, and that he “engaged defensive maneuvers” as soon as his vision was no longer impaired.

Although the passenger who was sitting next to Damann noted the red light at some unspecified point before the impact, when viewing the facts in the light most favorable to Defendants as the non-moving parties; it is reasonable to infer that Damann had already entered the intersection at that time with his vision being impaired due the sudden sun glare (*Singleton v. New York City Housing Auth.*, 200 AD2d 732, 733 [2d Dept 1994] [“In reviewing an order granting summary judgment, the evidentiary facts alleged by the party opposing the motion and the inferences which may be drawn from them must be accepted as true.”]).

This case is analogous to *Lupercio v. Pappas*, 2019 N.Y. Misc. LEXIS 15329 [Sup Ct, Queens Cty, Dec. 11, 2019]. There, as here, the defendant asserted that sun glare “temporarily blinded her when she made a left turn and her vision was so obstructed as to block all vision of the roadway in front of her and her vehicle accidentally struck pedestrian plaintiff.” *Id.* at \*4. Citing *Lifson*, the *Lupercio* court found that the defendants “have raised triable issues of fact as to whether the sun glare was a sudden and unexpected circumstance generating an emergency situation at the time of the accident and if so, whether defendant’s actions were reasonable and prudent in the emergency context.” *Id.*

As in *Lupercio*, Defendants have raised triable issues of fact as to: (1) whether the sun glare that temporarily blinded Damann who was driving northbound constitutes a sudden and unexpected circumstance generating an emergency situation, (2) whether Damann acted

reasonably under the circumstances. *Id.*; *Lifson*, 17 NY3d at 498; *Kiranjeet Kaur*, 2021 N.Y. Misc. LEXIS 27612, at \*2. Consequently, the branch of Plaintiff’s motion for summary judgment on the issue of liability is denied. However, the branch of the motion to dismiss Defendants’ affirmative defenses, alleging comparative negligence, contributory negligence and culpable conduct of Plaintiff is granted, as there is no evidence that Plaintiff was negligent. Specifically, Plaintiff has a steady green light as he entered the subject intersection, as opposed to a green light.

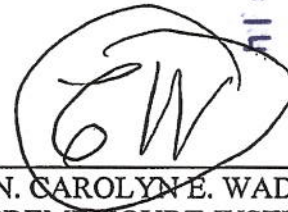
**Conclusion**

Accordingly, based upon the above, Plaintiff’s motion is **granted to the extent** that the affirmative defenses, alleging comparative negligence, contributory negligence and culpable conduct of Plaintiff, are hereby dismissed. The balance of Plaintiff’s motion is **denied**.

This constitutes the Decision and Order of the Court.

ENTER,

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HON. CAROLYN E. WADE  
SUPREME COURT JUSTICE

HON. CAROLYN E. WADE  
JUSTICE OF THE SUPREME COURT

DATE: 12/6/2024