

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Ramjattan v. Auringer

Ramjattan, 2026 NY Slip Op 03011 (Supreme Court of the State of New York Appellate Division Second
Judicial Department 2026) · No. 2024-12528 · Decided May 13, 2026

SUMMARY

The Appellate Division, Second Department, reversed an order granting the plaintiff summary judgment dismissing the defendants' affirmative defenses of comparative negligence. The court held that the plaintiff's affidavit did not eliminate all triable issues of fact concerning whether he was free from comparative negligence and denied that branch of the plaintiff's motion.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Cheryl E. Chambers, J.; Helen Voutsinas, J.; Elena Goldberg Velazquez, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	May 13, 2026
DOCKET	2024-12528
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendants appealed from an order granting the plaintiff summary judgment dismissing their affirmative defenses alleging comparative negligence.
STANDARD OF REVIEW	Summary judgment requires the movant to establish prima facie entitlement to judgment as a matter of law by eliminating all triable issues of fact; if the movant fails to meet that burden, the sufficiency of the opposing papers need not be considered.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Austin Auringer, et al. v. Chris Ramjattan

TOPICS

comparative fault

summary judgment

personal injury

standard of review

appellate procedure

PRACTICE AREAS

personal injury

civil procedure

appellate procedure

automobile negligence

QUESTIONS PRESENTED

1. Whether a plaintiff's comparative negligence may be resolved on the plaintiff's motion for summary judgment dismissing a defendant's affirmative defense alleging comparative negligence.
2. Whether the plaintiff established prima facie entitlement to summary judgment dismissing the defendants' comparative-negligence defenses by eliminating all triable issues of fact as to his own freedom from comparative negligence.

HOLDINGS

1. The issue of a plaintiff's comparative negligence may be decided on a summary judgment motion when the plaintiff seeks dismissal of a defendant's affirmative defense alleging comparative negligence and culpable conduct by the plaintiff.
2. The plaintiff was not entitled to summary judgment dismissing the defendants' comparative-negligence defenses because his affidavit failed to eliminate all triable issues of fact as to whether he was free from comparative negligence.

KEY QUOTATIONS

*“[T]he issue of a plaintiff's comparative negligence may be decided in the context of a summary judgment motion where the plaintiff moves for summary judgment dismissing a defendant's affirmative defense alleging comparative negligence and culpable conduct on the part of the plaintiff” ([*1])*

FACTUAL BACKGROUND

The plaintiff allegedly sustained personal injuries when his vehicle collided with the defendants' vehicle at an intersection in Queens. He contended that the defendants' negligence was the sole proximate cause of the accident and sought dismissal of the defendants' comparative-negligence defenses. The plaintiff's affidavit did not eliminate all triable issues of fact concerning whether he was free from comparative negligence.

PROCEDURAL HISTORY

The plaintiff commenced a personal-injury action after his vehicle collided with the defendants' vehicle at a Queens intersection. The plaintiff moved for summary judgment on liability and to dismiss the defendants' comparative-negligence defenses. The Supreme Court, Queens County, granted the branch seeking dismissal of those defenses, and the Appellate Division reversed that portion of the order.

DISPOSITION

reversed

CASES CITED

- Sapienza v. Harrison, 191 A.D.3d 1028, 1029
- Fischetti v. Simonovsky, 227 A.D.3d 670, 671
- Karim v. Proline Rental, LLC, 222 A.D.3d 851, 852
- Lu Yan Li v. Yong Hua Zhen, 232 A.D.3d 872, 873
- Policart v. Wheels LT, 221 A.D.3d 921, 922
- Winegrad v. New York Univ. Med. Ctr., 64 N.Y.2d 851, 853

OPINION

PER CURIAM.

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May 13, 2026

Appellate Division, Second Department

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Chris Ramjattan, respondent,

v

Austin Auringer, et al., appellants.

Supreme Court of the State of New York, Appellate Division, Second Judicial Department

Decided on May 13, 2026

2024-12528, (Index No. 709859/21)

Francesca E. Connolly, J.P.

Cheryl E. Chambers

Helen Voutsinas

Elena Goldberg Velazquez, JJ.

Kahana & Feld LLP, New York, NY (John F. Watkins of counsel), for appellants.

Ikhilov & Associates (Beth S. Gereg, Smithtown, NY, of counsel), for respondent.

[*1]

DECISION & ORDER

In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Queens County (Phillip Hom, J.), entered September 27, 2024.

The order, insofar as appealed from, granted that branch of the plaintiff's motion which was for summary judgment dismissing the defendants' affirmative defenses alleging comparative negligence.

ORDERED that the order is reversed insofar as appealed from, on the law, with costs, and that branch of the plaintiff's motion which was for summary judgment dismissing the defendants' affirmative defenses alleging comparative negligence is denied.

The plaintiff commenced this action against the defendants to recover damages for personal injuries

that he allegedly sustained when his vehicle collided with the defendants' vehicle at an intersection in Queens.

The plaintiff moved, inter alia, for summary judgment on the issue of liability and dismissing the defendants' affirmative defenses alleging comparative negligence, contending that the defendants' negligence was the sole proximate cause of the accident.

In an order entered September 27, 2024, the Supreme Court, among other things, granted that branch of the plaintiff's motion which was for summary judgment dismissing the defendants' affirmative defenses alleging comparative negligence.

"[T]he issue of a plaintiff's comparative negligence may be decided in the context of a summary judgment motion where the plaintiff moves for summary judgment dismissing a defendant's affirmative defense alleging comparative negligence and culpable conduct on the part of the plaintiff" (*Sapienza v Harrison*, 191 AD3d 1028, 1029; *see* *Fischetti v Simonovsky*, 227 AD3d 670, 671; *Karim v Proline Rental, LLC*, 222 AD3d 851, 852).

Here, the plaintiff failed to establish his prima facie entitlement to judgment as a matter of law dismissing the defendants' affirmative defenses alleging comparative negligence, since the plaintiff's affidavit did not eliminate all triable issues of fact as to whether he was free from comparative negligence (*see* *Lu Yan Li v Yong Hua Zhen*, 232 AD3d at 873; *Karim v Proline Rental, LLC*, 222 AD3d at 852; *Policart v Wheels LT*, 221 AD3d at 922).

Accordingly, the Supreme Court should have denied that branch of the plaintiff's motion which was for summary judgment dismissing the defendants' affirmative defenses alleging comparative negligence without regard to the sufficiency of the defendants' opposition papers (*see* *Winegrad v New York Univ.*

Med. Ctr., 64 NY2d 851, 853).

CONNOLLY, J.P., CHAMBERS, VOUTSINAS and GOLDBERG VELAZQUEZ, JJ., concur.

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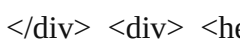
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PER CURIAM.

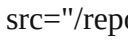
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Elena Goldberg Velazquez, JJ.
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Ikhilov & Associates (Beth S. Gereg, Smithtown, NY, of counsel), for respondent.
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CONNOLLY, J.P., CHAMBERS, VOUTSINAS and GOLDBERG VELAZQUEZ, JJ., concur.

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PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. Chris Ramjattan, respondent, v Austin Auringer, et al., appellants. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on May 13, 2026 2024-12528, (Index No. 709859/21) Francesca E. Connolly, J.P. Cheryl E. Chambers Helen Voutsinas Elena Goldberg Velazquez, JJ. Kahana & Feld LLP, New York, NY (John F. Watkins of counsel), for appellants.

Ikhilov & Associates (Beth S. Gereg, Smithtown, NY, of counsel), for respondent. [*1] DECISION & ORDER In an action to recover damages for personal injuries, the defendants appeal from an order of the Supreme Court, Queens County (Phillip Hom, J.), entered September 27, 2024.

The order, insofar as appealed from, granted that branch of the plaintiff's motion which was for summary judgment dismissing the defendants' affirmative defenses alleging comparative negligence. ORDERED that the order is reversed insofar as appealed from, on the law, with costs, and that branch of the plaintiff's motion which was for summary judgment dismissing the defendants' affirmative defenses alleging comparative negligence is denied.

The plaintiff commenced this action against the defendants to recover damages for personal injuries that he allegedly sustained when his vehicle collided with the defendants' vehicle at an intersection in Queens. The plaintiff moved, inter alia, for summary judgment on the issue of liability and dismissing the defendants' affirmative defenses alleging comparative negligence, contending that the defendants' negligence was the sole proximate cause of the accident.

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Accordingly, the Supreme Court should have denied that branch of the plaintiff's motion which was for summary judgment dismissing the defendants' affirmative defenses alleging [*2] comparative negligence without regard to the sufficiency of the defendants' opposition papers (see *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853). CONNOLLY, J.P., CHAMBERS, VOUTSINAS and GOLDBERG VELAZQUEZ, JJ., concur.

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