

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

Tapia v. Van Rossum

2026 NY Slip Op 02431 · No. 2024-10982 · Decided April 22, 2026

SUMMARY

The New York Appellate Division, Second Department, affirmed an order denying the plaintiff leave to renew and, upon reargument, adhering to the denial of her motion for summary judgment on liability in a personal-injury action arising from a pedestrian-vehicle collision. The court held that the plaintiff failed to provide a reasonable justification for not presenting purportedly new evidence earlier and failed to establish prima facie entitlement to summary judgment.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Cheryl E. Chambers, J.; Linda Christopher, J.; James P. McCormack, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	April 22, 2026
DOCKET	2024-10982
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order that denied leave to renew her motion for summary judgment on liability, granted leave to reargue, and adhered upon reargument to the prior denial of summary judgment.
STANDARD OF REVIEW	The denial of leave to renew is reviewed for abuse of discretion; the court also reviewed whether the plaintiff established prima facie entitlement to summary judgment as a matter of law.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Amparo Tapia v. Olson E. Van Rossum, Uber Technologies, Inc., Uber USA, LLC

TOPICS

- summary judgment
- motion for reconsideration
- negligence
- comparative fault
- appellate procedure

PRACTICE AREAS

civil procedure

personal injury

negligence

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the Supreme Court providently exercised its discretion in denying leave to renew where the plaintiff failed to provide a reasonable justification for not submitting the purported new evidence with her original motion.
2. Whether the Supreme Court properly adhered upon reargument to its denial of the plaintiff's motion for summary judgment on liability because the plaintiff failed to establish prima facie entitlement to judgment as a matter of law.

HOLDINGS

1. Leave to renew was properly denied because the plaintiff failed to offer a reasonable justification for not including the purported new evidence in support of her original motion.
2. The plaintiff was not entitled to summary judgment on liability because her submissions failed to establish prima facie entitlement to judgment as a matter of law.

KEY QUOTATIONS

“A motion for leave to renew shall be based upon new facts not offered on the prior motion that would change the prior determination” ([*1]-[*2])

“A plaintiff in a negligence action moving for summary judgment on the issue of liability must establish, prima facie, that the defendant breached a duty owed to the plaintiff and that the defendant's negligence was a proximate cause of the alleged injuries” ([*2])

“To be entitled to summary judgment on the issue of a defendant's liability, a plaintiff does not bear the burden of establishing the absence of his or her own comparative negligence” ([*2])

FACTUAL BACKGROUND

Tapia allegedly sustained personal injuries when she was struck by a vehicle operated by Olson E. Van Rossum while she was crossing a street. She moved for summary judgment on the issue of Van Rossum's liability. After the motion was denied, she sought leave to renew based on purported new evidence and leave to reargue.

PROCEDURAL HISTORY

Tapia commenced a personal-injury action after allegedly being struck by Van Rossum's vehicle while crossing a street. The Supreme Court, Kings County, denied her motion for summary judgment on liability on July 21, 2023. The court later denied renewal, granted reargument, and adhered to its original determination in an order dated September 5, 2024. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Groman v. Fleyshmakher, 221 AD3d 789, 790
- Ok Sun Chong v. Scheelje, 218 AD3d 691, 692
- Seegopaul v. MTA Bus Co., 210 AD3d 715, 716
- Tsyganash v. Auto Mall Fleet Mgt., Inc., 163 AD3d 1033, 1033-1034
- Rodriguez v. City of New York, 31 NY3d 312
- Valerio v. City of New York, 238 AD3d 943, 944
- Gomez v. City of New York, 186 AD3d 1494, 1495
- Winegrad v. New York Univ. Med. Ctr., 64 NY2d 851, 853

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