

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

Damian T. Henry v. Tanata Cook, et al.

Henry, 2025 NY Slip Op 06694 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2025) · No. 2024-02855 · Decided December 3, 2025

SUMMARY

The New York Supreme Court, Appellate Division, Second Department dismissed a nonparty passenger's appeal from an order granting the plaintiff summary judgment against the defendants in a personal-injury action arising from a motor vehicle accident. The court held that the appellant was not aggrieved because the order granted no relief against her, and she failed to show that she was united in interest with the defendants.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Linda Christopher, J.; Lillian Wan, J.; Janice A. Taylor, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	December 3, 2025
DOCKET	2024-02855
DISPOSITION	dismissed
PROCEDURAL POSTURE	Nonparty Lateema Nero appealed from an order granting the plaintiff summary judgment on liability and dismissing the defendants' comparative-negligence affirmative defense. The plaintiff moved to dismiss the appeal because Nero was not aggrieved by the order.
PRECEDENTIAL VALUE	Published
PARTIES	Lateema Nero, nonparty-appellant v. Damian T. Henry, respondent

TOPICS

appellate procedure

standing

summary judgment

comparative fault

personal injury

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Nero was an aggrieved person entitled to appeal under CPLR 5511 from an order granting the plaintiff relief against the defendants.
2. Whether Nero was united in interest with the defendants so as to qualify for appellate standing despite not being the subject of the relief granted.

HOLDINGS

1. Nero was not aggrieved because she did not seek relief and the order granted no relief against her.
2. Nero failed to demonstrate that she was united in interest with the defendants under the circumstances of the case and therefore could not appeal.

KEY QUOTATIONS

"A person is aggrieved within the meaning of CPLR 5511 "when he or she asks for relief but that relief is denied in whole or in part," or "when someone asks for relief against him or her, which the person opposes, and the relief is granted in whole or in part"" (2025 NY Slip Op 06694)

"Since Nero was not aggrieved by the order appealed from, her appeal must be dismissed" (2025 NY Slip Op 06694)

FACTUAL BACKGROUND

The plaintiff and the defendants were involved in a motor vehicle accident. The plaintiff sued for personal injuries alleging negligence, while Nero, a passenger in the defendants' vehicle, separately sued, among others, the plaintiff and the defendants. The related actions were joined for discovery and trial, but the challenged order granted relief only against the defendants by determining liability and dismissing their comparative-negligence defense.

PROCEDURAL HISTORY

Following a motor vehicle accident, Damian T. Henry commenced an action for personal injuries against the defendants. Nero, a passenger in the defendants' vehicle, commenced a separate related action, and the actions were joined with a third action for discovery and trial. The Supreme Court, Kings County, granted Henry's motion for summary judgment against the defendants; the Appellate Division granted Henry's motion to dismiss Nero's appeal.

DISPOSITION

dismissed

CASES CITED

- *Mixon v. TBV, Inc.*, 76 AD3d 144, 156-157

- *Saccheri v. Cathedral Props. Corp.*, 123 AD3d 899, 900
- *Estella v. Val Auto, LLC*, 221 AD3d 967, 967-968

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