

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

Kelvin Johnson v. Thomas Ward Cain

2025 NY Slip Op 07003 (Supreme Court of the State of New York Appellate Division Second Judicial
Department 2025) · No. 2024-08591 · Decided December 17, 2025

SUMMARY

The Appellate Division, Second Department affirmed an order granting the plaintiff summary judgment on liability in a rear-end automobile accident and dismissing the defendant's seatbelt defense. The court held that the plaintiff established a prima facie case through his affirmation that the defendant's vehicle struck his vehicle from behind and that he was wearing a seatbelt. The defendant's claim that the plaintiff stopped suddenly was conclusory and did not raise a triable issue of fact or show that the motion was premature.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Linda Christopher, J.; Carl J. Landicino, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 17, 2025
DOCKET	2024-08591
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order granting plaintiff summary judgment on liability and dismissing defendant's affirmative defense alleging failure to use a seatbelt.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Thomas Ward Cain v. Kelvin Johnson

TOPICS

negligence

personal injury

summary judgment

affirmative defenses

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to summary judgment on liability based on evidence that defendant's vehicle rear-ended plaintiff's vehicle.
2. Whether plaintiff was entitled to summary judgment dismissing defendant's affirmative defense alleging that plaintiff failed to use a seatbelt.
3. Whether plaintiff's summary-judgment motion was premature because discovery had not yet occurred.

HOLDINGS

1. Plaintiff established prima facie entitlement to judgment as a matter of law on liability by showing that defendant's vehicle struck plaintiff's vehicle from behind, and defendant failed to provide a non-negligent explanation sufficient to raise a triable issue of fact.
2. Plaintiff was entitled to summary judgment dismissing defendant's affirmative defense alleging failure to wear a seatbelt because plaintiff's affirmation stated that he was wearing a seatbelt and defendant did not dispute that representation.
3. The motion was not shown to be premature despite the lack of completed discovery.

KEY QUOTATIONS

*“A driver of a vehicle approaching another vehicle from the rear is required to maintain a reasonably safe distance and rate of speed under the prevailing conditions to avoid colliding with the other vehicle” ([*1])*

*“A rear-end collision establishes a prima facie case of negligence on the part of the operator of the rear vehicle, thereby requiring that operator to rebut the inference of negligence by providing a non-negligent explanation for the collision” ([*1])*

FACTUAL BACKGROUND

Kelvin Johnson was driving the middle vehicle in a three-vehicle accident when the rearmost vehicle, driven by Thomas Ward Cain, struck Johnson's vehicle from behind. Johnson submitted an affirmation stating that Cain's vehicle struck his vehicle in the rear and that he was wearing a seatbelt. Cain asserted that Johnson's vehicle stopped suddenly, but the court found that assertion conclusory and noted that Cain did not dispute Johnson's seatbelt representation.

PROCEDURAL HISTORY

Plaintiff commenced a personal-injury action after a three-vehicle accident and moved for summary judgment before discovery. The Supreme Court, Queens County, granted plaintiff's motion as to liability and the seatbelt defense. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Nsiah-Ababio v Hunter, 78 AD3d 672, 672
- O'Hara v Bancker Constr. Corp., 225 AD3d 889
- Balgobin v McKenzie, 213 AD3d 893, 893-894
- Maurice v Donovan, 235 AD3d 633

OPINION

PER CURIAM.

Johnson v Cain (2025 NY Slip Op 07003) Johnson v Cain 2025 NY Slip Op 07003 Decided on December 17, 2025 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on December 17, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department CHERYL E. CHAMBERS, J.P.

LINDA CHRISTOPHER CARL J. LANDICINO JAMES P. MCCORMACK, JJ. 2024-08591 (Index No. 724740/23) [*1]Kelvin Johnson, etc., respondent, v Thomas Ward Cain, appellant. Ondrovic & Platek, PLLC, White Plains, NY (Robert M. Lefland of counsel), for appellant. Elliott Iffraimoff & Associates, P.C. (Hasapidis Law Offices, South Salem, NY [Annette G. Hasapidis], of counsel), for respondent.

DECISION & ORDER In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Queens County (Timothy J. Dufficy, J.), dated May 3, 2024. The order, insofar as appealed from, granted those branches of the plaintiff's motion which were for summary judgment on the issue of liability and dismissing the defendant's affirmative defense alleging failure to use a seatbelt.

ORDERED that the order is affirmed insofar as appealed from, with costs. In November 2023, the plaintiff commenced this action to recover damages for personal injuries he allegedly sustained after being involved in a three-vehicle accident.

The lead vehicle was operated by a nonparty, the middle vehicle was operated by the plaintiff, and the rearmost vehicle was operated by the defendant. Before discovery was conducted, the plaintiff moved, inter alia, for summary judgment on the issue of liability and dismissing the defendant's affirmative defense alleging failure to use a seatbelt.

In an order dated May 3, 2024, the Supreme Court, among other things, granted those branches of the plaintiff's motion. The defendant appeals. "A driver of a vehicle approaching another vehicle

from the rear is required to maintain a reasonably safe distance and rate of speed under the prevailing conditions to avoid colliding with the other vehicle" (*Nsiah-Ababio v Hunter*, 78 AD3d 672, 672; see *Vehicle and Traffic Law* § 1129[a]; *O'Hara v Bancker Constr.*

Corp., 225 AD3d 889). "[A] rear-end collision establishes a prima facie case of negligence on the part of the operator of the rear vehicle, thereby requiring that operator to rebut the inference of negligence by providing a non-negligent explanation for the collision" (*Balgobin v McKenzie*, 213 AD3d 893, 893-894 [internal quotation marks omitted]).

Here, the plaintiff established his prima facie entitlement to judgment as a matter of law on the issue of liability by submitting an affirmation wherein he stated that his vehicle was struck in the rear by the defendant's vehicle (see *id.*). Additionally, the plaintiff established his prima facie entitlement to judgment as a matter of law dismissing the affirmative defense alleging failure to wear a seat belt through his affirmation wherein he stated that he was wearing a seat belt [*2]during the accident (see *Maurice v Donovan*, 235 AD3d 633).

In opposition, the defendant failed to raise a triable issue of fact. The assertion in the defendant's affirmation that the plaintiff's vehicle stopped suddenly was conclusory, and the defendant did not dispute the plaintiff's representation that the plaintiff was wearing his seat belt at the time of the accident. Contrary to the defendant's contention, he failed to establish that the plaintiff's motion was premature (see *id.*; *Balgobin v McKenzie*, 213 AD3d at 894).

Accordingly, the Supreme Court properly granted those branches of the plaintiff's motion which were for summary judgment on the issue of liability and dismissing the defendant's affirmative defense alleging failure to wear a seatbelt. CHAMBERS, J.P., CHRISTOPHER, LANDICINO and MCCORMACK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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