

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

Vazquez v. Randall

2022 NY Slip Op 03187 (App. Div. 2022) · No. 2021-02386 · Decided May 12, 2022

SUMMARY

The Appellate Division, First Department affirmed an order denying defendants' cross motions for summary judgment on liability in a personal-injury action arising from a four-vehicle accident. The court held that certain defendants failed to submit sufficient evidence establishing lack of liability, and that another defendant's conclusory affidavit was inadequate to make a prima facie showing.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Gische, J.P.; Scarpulla, J.; Mendez, J.; Shulman, J.; Higgitt, J.
JURISDICTION	New York
DECIDED	May 12, 2022
DOCKET	2021-02386
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order of Supreme Court, New York County, denying their cross motions for summary judgment on liability, with leave to refile after completion of discovery.
PRECEDENTIAL VALUE	published appellate decision
PARTIES	Persio Agramonte, Rigoberto E. Barrios, Fadjine Kone v. Manuel Vazquez

TOPICS

- summary judgment
- personal injury
- civil procedure
- appellate procedure

PRACTICE AREAS

- civil procedure
- personal injury litigation

QUESTIONS PRESENTED

1. Whether defendants Agramonte, Barrios, and Kone were entitled to summary judgment dismissing the claims and cross claims against them on the issue of liability before completion of discovery.

HOLDINGS

1. The defendants' cross motions for summary judgment were properly denied because Agramonte and Barrios failed to submit an affidavit from a person with knowledge demonstrating their lack of liability, and Kone's conclusory affidavit was insufficient to establish a prima facie case.

KEY QUOTATIONS

“Defendants' cross motions for summary judgment were properly denied.”

“Defendant Kone's brief two-page affidavit in support of his cross motion for summary judgment was entirely conclusory and insufficient to make out a prima facie case.”

FACTUAL BACKGROUND

Manuel Vazquez allegedly sustained personal injuries in a four-motor-vehicle accident while he was a passenger in the lead vehicle. Before the preliminary conference, Vazquez moved for summary judgment on liability. Defendants Agramonte and Barrios did not submit an affidavit from a person with knowledge describing how the accident occurred, while Kone submitted a brief, conclusory affidavit.

PROCEDURAL HISTORY

In this personal-injury action arising from a four-vehicle accident, plaintiff moved for summary judgment on liability before the preliminary conference. Defendants Agramonte, Barrios, and Kone cross-moved for summary judgment dismissing the claims and cross claims against them. Supreme Court denied the cross motions with leave to refile upon completion of discovery, and the Appellate Division unanimously affirmed the portion of the order appealed from.

DISPOSITION

affirmed

OPINION

PER CURIAM.

Vazquez v Randall (2022 NY Slip Op 03187) Vazquez v Randall 2022 NY Slip Op 03187 Decided on May 12, 2022 Appellate Division, First 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 and Entered: May 12, 2022 Before: Gische, J.P., Scarpulla, Mendez, Shulman, Higgitt, JJ. Index No. 157946/19 Appeal No. 15931 Case No. 2021-02386 [*1]Manuel Vazquez, Plaintiff-Respondent, vTod Randall et al., Defendants-Respondents, Persio Agramonte et al., Defendants-Appellants.

Scahill Law Group, P.C., Bethpage (Gerard Ferrara of counsel), for Persio Agramonte and Rigoberto E. Barrios, appellants. The Zweig Law Firm P.C., Woodmere (Jonah S. Zweig of counsel), for Fadjine Kone, appellant. Order, Supreme Court, New York County (J. Machel Sweeting, J.), entered on or about June 22, 2021, which, to the extent appealed from as limited by the briefs, denied defendants' cross motions for summary judgment on the issue of liability, with leave to refile upon the completion of discovery, unanimously affirmed, without costs.

This is an action for personal injuries allegedly sustained by plaintiff in a four-motor-vehicle accident. Plaintiff was a passenger in the lead vehicle. Before the court even held the preliminary conference, plaintiff moved for summary judgment on the issue of liability, and the defendants, other than Randall and the city defendants, cross-moved for summary judgment dismissing all claims and cross claims against them.

Defendants' cross motions for summary judgment were properly denied. Indeed, in support of their cross motion for summary judgment, defendants Agramonte and Barrios did not submit an affidavit of a person with knowledge to describe how the accident occurred and to demonstrate their lack of liability. Defendant Kone's brief two-page affidavit in support of his cross motion for summary judgment was entirely conclusory and insufficient to make out a prima facie case.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: May 12, 2022