

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

Frantz v. XL Diamonds LLC

Frantz, 2026 NY Slip Op 03067 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 151672/22; Appeal No. 6619; Case No. 2025-06178 · Decided May 14, 2026

SUMMARY

The Appellate Division, First Department affirmed the denial of the plaintiff's summary judgment motion and the dismissal of his disability-discrimination claims under the New York State and New York City Human Rights Laws. The court held that the plaintiff failed to establish an inference of discrimination or show that the defendants' stated reason for terminating him—using purported sick leave to vacation in Mexico and remaining unavailable for work communications—was pretextual.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; González, J.; Pitt-Burke, J.; Higgitt, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	May 14, 2026
DOCKET	Index No. 151672/22; Appeal No. 6619; Case No. 2025-06178
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting defendants' cross-motion for summary judgment dismissing disability-discrimination causes of action under the New York State Human Rights Law and New York City Human Rights Law, and denying plaintiff's motion for summary judgment.
STANDARD OF REVIEW	Summary judgment standard; the court evaluated whether plaintiff established a prima facie case and whether defendants demonstrated a legitimate, nondiscriminatory reason that plaintiff failed to show was pretextual.
PRECEDENTIAL VALUE	Published intermediate appellate decision
PARTIES	Yaniv Frantz v. XL Diamonds LLC, et al.

TOPICS

disability discrimination

employment discrimination

standard of review

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether plaintiff established a prima facie inference of disability discrimination under the New York State Human Rights Law and New York City Human Rights Law.
2. Whether defendants established a legitimate, nondiscriminatory reason for plaintiff's termination and whether plaintiff raised a triable issue that the reason was pretextual.
3. Whether requiring plaintiff to provide a negative COVID test before returning to work supported an inference of discriminatory animus.

HOLDINGS

1. Plaintiff failed to establish prima facie that his termination occurred under circumstances giving rise to an inference of discrimination, even assuming that his COVID-19 illness placed him within a protected class under the State and City Human Rights Laws.
2. Evidence that an employer required an employee to present a negative COVID test before returning to work does not, without more, permit an inference of discriminatory animus.
3. Defendants established a legitimate, nondiscriminatory reason for terminating plaintiff, and plaintiff failed to submit evidence that the reason was pretextual or that his COVID-19 illness was a motivating factor in the decision.

KEY QUOTATIONS

“Consistent with employers' need to take reasonable steps to protect the health and safety of their businesses, employers may require employees to provide evidence of their ability to safely return to the workplace after recovering from COVID-19 and to confirm that they are not contagious” (at 1)

FACTUAL BACKGROUND

Plaintiff claimed disability discrimination based on his COVID-19 illness and challenged his termination from employment. Defendants required plaintiff to present a negative COVID test before returning to work. Defendants asserted that plaintiff used purported sick time to take a vacation to Mexico during their busiest season, failed to notify the employer, and was unavailable for work communications. Plaintiff offered no evidence of pejorative comments about COVID, disparate treatment of similarly situated employees, or pretext.

PROCEDURAL HISTORY

Supreme Court, New York County, denied plaintiff's motion for summary judgment and granted defendants' cross-motion for summary judgment dismissing the disability-discrimination claims. The Appellate Division, First Department unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- Bennett v. Health Mgt. Sys., Inc., 92 AD3d 29, 35-36 (1st Dept. 2011), lv denied 18 NY3d 811 (2012)
- Rodriguez v. New York City Hous. Auth., 225 AD3d 458, 459 (1st Dept. 2024), lv denied 42 NY3d 905 (2024)
- Hamburg v. New York Univ. Sch. of Medicine, 155 AD3d 66, 73 (1st Dept. 2017)
- Caputo v. IESI NY Corp., 228 AD3d 480, 481 (1st Dept. 2024)

OPINION

Frantz v. XL Diamonds LLC 2026 NY Slip Op 03067

PER CURIAM.

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May 14, 2026

Appellate Division, First Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

Yaniv Frantz, Plaintiff-Appellant,

v

XL Diamonds LLC, et al., Defendants-Respondents.

Decided and Entered: May 14, 2026

Index No. 151672/22|Appeal No. 6619|Case No. 2025-06178|

Before: Webber, J.P., González, Pitt-Burke, Higgitt, Hagler, JJ.

Law Offices of G. Oliver Koppell & Associates, New York (Scott Doherty of counsel), for appellant.

Kaufman Dolowich, LLP, New York (Kevin J. Windels of counsel), for respondents.

[*1]

Order, Supreme Court, New York County (Judy H. Kim, J.), entered on or about July 17, 2025, which denied plaintiff's motion for summary judgment on his causes of action for disability discrimination under the New York State Human Rights Law (State HRL) and City Human Rights Law (City HRL) and granted defendants' cross-motion for summary judgment dismissing those causes of action, unanimously affirmed, without costs.

Even assuming that plaintiff was a member of a protected class under the State and City HRLs based on his COVID-19 illness, Supreme Court correctly denied his motion for summary judgment because he

failed to establish prima facie that his termination from employment occurred under circumstances giving rise to an inference of discrimination (*see* *Bennett v Health Mgt. Sys., Inc.*, 92 AD3d 29, 35-36 [1st Dept 2011], *lv denied* 18 NY3d 811 [2012]). The record presents no evidence that defendants made pejorative comments about people with COVID or treated similarly situated employees differently based on their COVID status (*see* *Rodriguez v New York City Hous. Auth.*, 225 AD3d 458, 459 [1st Dept 2024], *lv denied* 42 NY3d 905 [2024]). Furthermore, contrary to plaintiff's contention, evidence that defendants required plaintiff to present a negative COVID test to return to work does not permit an inference of discriminatory animus. On the contrary, the New York City Commission on Human Rights provides that under the City HRL, "[c]onsistent with employers' need to take reasonable steps to protect the health and safety of their businesses, employers may require employees to provide evidence of their ability to safely return to the workplace after recovering from COVID-19 and to confirm that they are not contagious" (NYC Commission on Human Rights, *COVID-19 & Employment Protections*, <https://www.nyc.gov/site/cchr/community/covid-employment.page> [last accessed Apr. 14, 2026]).

Irrespective of whether plaintiff sustained his prima facie burden, defendants submitted evidence, both in opposition to plaintiff's motion and on their cross-motion, showing that plaintiff was terminated for the legitimate, nondiscriminatory reason that he used his purported sick time as an opportunity to take a vacation to Mexico, during defendants' busiest season, without telling his employer and without remaining available for work communications. In response, plaintiff failed to submit any evidence suggesting that defendants' reason for terminating his employment was pretextual or that his COVID-19 illness was a motivating factor in defendants' decision (*see* *Hamburg v New York Univ. Sch. of Medicine*, 155 AD3d 66, 73 [1st Dept 2017]). The fact that plaintiff traveled to Mexico after testing positive for COVID, does not suggest that he was terminated because he had COVID (*see* *Caputo v IESI NY Corp.*, 228 AD3d 480, 481 [1st Dept 2024]).

We have considered plaintiff's additional arguments and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

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PER CURIAM.

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PER CURIAM.

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