

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

**Pearson v. Jakubcin**

Pearson, 2026 NY Slip Op 02930 (Supreme Court of the State of New York Appellate Division First Department  
2026) · No. Index No. 809382/22; Appeal No. 6601; Case No. 2025-03751 · Decided May 12, 2026

---

**OPINION**

Pearson v. Jakubcin 2026 NY Slip Op 02930

PER CURIAM.

Pearson v Jakubcin - 2026 NY Slip Op 02930 [skip to main content](#)

It appears you are using Adblock. Please disable Adblock to best experience our website.



Law Reporting Bureau  
Thomas J.K. Smith, State Reporter

Court Decisions  
Resources About



Home

All Court Decisions

Decisions

# Pearson v Jakubcin

2026 NY Slip Op 02930  
May 12, 2026  
Appellate Division, First Department  
Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.  
This decision is uncorrected and subject to revision before publication in the Official Reports.

Candace Pearson, et al., Respondents,  
v.  
Zuzana Jakubcin, Appellant,  
Jonathan Calle Pelaez, Defendant.

Decided and Entered: May 12, 2026  
Index No. 809382/22|Appeal No. 6601|Case No. 2025-03751|  
Before: Scarpulla, J.P.,  
Mendez, Shulman, Rodriguez, Hagler, JJ.

The Law Office of David S. Klausner PLLC, White Plains (Stephen Slater of counsel), for appellant.  
Zalman Schnurman & Miner P.C., New York (Marc H. Miner of counsel), for respondents.

[\*1] Order, Supreme Court, Bronx County (Patsy Gouldborne, J.), entered on or about April 15, 2025, which, to the extent appealed from as limited by the briefs, granted plaintiffs' motion for summary judgment on the issue of liability, unanimously reversed, on the law, without costs, and the motion denied. Plaintiffs established prima facie entitlement to summary judgment on the issue of liability against defendant Jakubcin by submitting evidence that Jakubcin's vehicle rear-ended their vehicle (*see* *Romero v Valdez*, 198 AD3d 496, 497 [1st Dept 2021], *lv* dismissed 37 NY3d 1232 [2022]). However, Jakubcin raised a triable issue of fact by offering a nonnegligent explanation for the collision (*see* *Tutrani v County of Suffolk*, 10 NY3d 906, 908 [2008]). Jakubcin testified that she was travelling southbound in the center lane on Interstate 95 and that she was following a box car for about 10 miles at 60 miles per hour, when the box car suddenly moved into the right lane after

signaling, at which time Jakubcin first observed plaintiffs' car. Jakubcin testified that plaintiffs' car was slow moving or became disabled and abruptly stopped in the center lane, only "seconds" in travel time ahead of Jakubcin's car. The box car had obstructed Jakubcin's view of the center lane conditions. Jakubcin quickly discerned she could not safely move into either the left or right lanes of the highway due to cars travelling in those lanes near her vehicle. Thus, Jakubcin's testimony "raises a triable issue as to whether [s]he was entitled to expect that traffic would continue unimpeded" (*Richards v Mitchell*, 172 AD3d 439, 439-440 [1st Dept 2019]; *see also* *Romero*, 198 AD3d at 497). Further, there was evidence that plaintiffs' car was not working and had no lights or emergency lights activated (*see Romero*, 198 AD3d at 497). While Jakubcin did not plead the emergency doctrine as an affirmative defense, she was not precluded "from raising the issue in response to [plaintiffs'] summary judgment motions" (*Richards*, 172 AD3d at 440).

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

ENTERED: May 12, 2026

Court Decisions

All Court Decisions Official Reports Service Bound Volumes Decision Search

Resources

RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index

About

About the Law Reporting Bureau About our Operations Contact Us Twitter

Quick Contact Info

17 Lodge Street  
Albany, NY 12207  
Phone: (518) 453-6900

Links to or from other sites do not signify endorsement or relationship with them.

PER CURIAM.

Pearson v Jakubcin - 2026 NY Slip Op 02930 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Pearson v Jakubcin 2026 NY Slip Op 02930 May 12, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. Candace Pearson, et al., Respondents, v Zuzana Jakubcin, Appellant, Jonathan Calle Pelaez, Defendant. Decided and Entered: May 12, 2026 Index No. 809382/22|Appeal No. 6601|Case No. 2025-03751| Before: Scarpulla, J.P., Mendez, Shulman, Rodriguez, Hagler, JJ. The Law Office of David S. Klausner PLLC, White Plains (Stephen Slater of counsel), for appellant. Zalman Schnurman & Miner P.C., New York (Marc H. Miner of counsel), for respondents. [\*1] Order, Supreme Court, Bronx County (Patsy Gouldborne, J.), entered on or about April 15, 2025, which, to the extent appealed from as limited by the briefs, granted plaintiffs' motion for summary judgment on the issue of liability, unanimously reversed, on the law, without costs, and the motion denied. Plaintiffs established prima facie entitlement to summary judgment on the issue of liability against defendant Jakubcin by submitting evidence that Jakubcin's vehicle rear-ended their vehicle ( see

Romero v Valdez , 198 AD3d 496 , 497 [1st Dept 2021], lv dismissed 37 NY3d 1232 [2022]). However, Jakubcin raised a triable issue of fact by offering a nonnegligent explanation for the collision ( see Tutrani v County of Suffolk , 10 NY3d 906, 908 [2008]). Jakubcin testified that she was travelling southbound in the center lane on Interstate 95 and that she was following a box car for about 10 miles at 60 miles per hour, when the box car suddenly moved into the right lane after signaling, at which time Jakubcin first observed plaintiffs' car. Jakubcin testified that plaintiffs' car was slow moving or became disabled and abruptly stopped in the center lane, only "seconds" in travel time ahead of Jakubcin's car. The box car had obstructed Jakubcin's view of the center lane conditions. Jakubcin quickly discerned she could not safely move into either the left or right lanes of the highway due to cars travelling in those lanes near her vehicle. Thus, Jakubcin's testimony "raises a triable issue as to whether [s]he was entitled to expect that traffic would continue unimpeded" ( Richards v Mitchell , 172 AD3d 439 , 439-440 [1st Dept 2019]; see also Romero , 198 AD3d at 497). Further, there was evidence that plaintiffs' car was not working and had no lights or emergency lights activated ( see Romero , 198 AD3d at 497). While Jakubcin did not plead the emergency doctrine as an affirmative defense, she was not precluded "from raising the issue in response to [plaintiffs'] summary judgment motions" ( Richards , 172 AD3d at 440). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: May 12, 2026 Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

PER CURIAM.

Pearson v Jakubcin - 2026 NY Slip Op 02930 skip to main content

It appears you are using Adblock. Please disable Adblock to best experience our website.

 Law Reporting Bureau

Thomas J.K. Smith, State Reporter

Court Decisions  
Resources About



Home All Court Decisions Decisions

# Pearson v Jakubcin

2026 NY Slip Op 02930

May 12, 2026

Appellate Division, First Department

Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

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

Candace Pearson, et al., Respondents,

v

Zuzana Jakubcin, Appellant,  
Jonathan Calle Pelaez, Defendant.

Decided and Entered: May 12, 2026

Index No. 809382/22|Appeal No. 6601|Case No. 2025-03751|

Before: Scarpulla, J.P.,

Mendez, Shulman, Rodriguez, Hagler, JJ. </p> <div> <p>The Law Office of David S. Klausner PLLC, White Plains (Stephen Slater of counsel), for appellant.</p> <p>Zalman Schnurman & Miner P.C., New York (Marc H. Miner of counsel), for respondents.</p> </div> <span>[\*1]</span> <p>Order, Supreme Court, Bronx County (Patsy Gouldborne, J.), entered on or about April 15, 2025, which, to the extent appealed from as limited by the briefs, granted plaintiffs' motion for summary judgment on the issue of liability, unanimously reversed, on the law, without costs, and the motion denied.</p> <p>Plaintiffs established prima facie entitlement to summary judgment on the issue of liability against defendant Jakubcin by submitting evidence that Jakubcin's vehicle rear-ended their vehicle (<i>see</i> <i>Romero v Valdez</i>, 198 AD3d 496, 497 [1st Dept 2021], <i>lv dismissed</i> 37 NY3d 1232 [2022]). However, Jakubcin raised a triable issue of fact by offering a nonnegligent explanation for the collision (<i>see</i> <i>Tutrani v County of Suffolk</i>, 10 NY3d 906, 908 [2008]). Jakubcin testified that she was travelling southbound in the center lane on Interstate 95 and that she was following a box car for about 10 miles at 60 miles per hour, when the box car suddenly moved into the right lane after signaling, at which time Jakubcin first observed plaintiffs' car. Jakubcin testified that plaintiffs' car was slow moving or became disabled and abruptly stopped in the center lane, only "seconds" in travel time ahead of Jakubcin's car. The box car had obstructed Jakubcin's view of the center lane conditions. Jakubcin quickly discerned she could not safely move into either the left or right lanes of the highway due to cars travelling in those lanes near her vehicle. Thus, Jakubcin's testimony "raises a triable issue as to whether [s]he was entitled to expect that traffic would continue unimpeded" (<i>Richards v Mitchell</i>, 172 AD3d 439, 439-440 [1st Dept 2019]; <i>see also</i> <i>Romero</i>, 198 AD3d at 497). Further, there was evidence that plaintiffs' car was not working and had no lights or emergency lights activated (<i>see Romero</i>, 198 AD3d at 497). While Jakubcin did not plead the emergency doctrine as an affirmative defense, she was not precluded "from raising the issue in response to [plaintiffs'] summary judgment motions" (<i>Richards</i>, 172 AD3d at 440).</p>

<p>THIS CONSTITUTES THE DECISION AND ORDER</p>

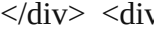
<p>OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.</p>

<p>ENTERED: May 12, 2026</p> </div> <div> <footer> <div> <p>Court Decisions</p> All Court Decisions Official Reports Service Bound Volumes Decision Search </div> <div> <p>Resources</p> RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index </div> <div> <p>About</p> About the Law Reporting Bureau About our Operations Contact Us Twitter </div> <div> <p>Quick Contact Info</p> <p>17 Lodge Street</p> <p>Albany, NY 12207</p> <p>Phone: (518) 453-6900</p> </div> </footer> </div> <div> <p>Links to or from other sites do not signify endorsement or relationship with them.</p> </div> </div>

PER CURIAM.

<div>Pearson v Jakubcin - 2026 NY Slip Op 02930 <div> skip to main content </div> <div>

It appears you are using Adblock. Please disable Adblock to best experience our website.



Law Reporting Bureau Home Page

Thomas J.K. Smith, State Reporter

Court Decisions

Resources About

Home

All Court Decisions

Decisions

# Pearson v Jakubcin

2026 NY Slip Op 02930

May 12, 2026

Appellate Division, First Department

Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

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

Candace Pearson, et al., Respondents,

v

Zuzana Jakubcin, Appellant,

Jonathan Calle Pelaez, Defendant.

Decided and Entered: May 12, 2026

Index No. 809382/22|Appeal No. 6601|Case No. 2025-03751|

Before: Scarpulla, J.P., Mendez, Shulman, Rodriguez, Hagler, JJ.

The Law Office of David S. Klausner PLLC, White Plains (Stephen Slater of counsel), for appellant.

Zalman Schnurman & Miner P.C., New York (Marc H. Miner of counsel), for respondents.

[\*1]

Order, Supreme Court, Bronx County (Patsy Gouldborne, J.), entered on or about April 15, 2025, which, to the extent appealed from as limited by the briefs, granted plaintiffs' motion for summary judgment on the issue of liability, unanimously reversed, on the law, without costs, and the motion denied.

Plaintiffs established prima facie entitlement to summary judgment on the issue of liability against defendant Jakubcin by submitting evidence that Jakubcin's vehicle rear-ended their vehicle (*see* *Romero v Valdez*, 198 AD3d 496, 497 [1st Dept 2021], *lv* dismissed 37 NY3d 1232 [2022]). However, Jakubcin raised a triable issue of fact by offering a nonnegligent explanation for the collision (*see* *Tutrani v County of Suffolk*, 10 NY3d 906, 908 [2008]). Jakubcin testified that she was travelling southbound in the center lane on Interstate 95 and that she was following a box car for about 10 miles at 60 miles per hour, when the box car suddenly moved into the right lane after signaling, at which time Jakubcin first observed plaintiffs' car. Jakubcin testified that plaintiffs' car was slow moving or became disabled and abruptly stopped in the center lane, only "seconds" in travel time ahead of Jakubcin's car. The box car had obstructed Jakubcin's view of the center lane conditions. Jakubcin quickly discerned she could not safely move into either the left or right lanes of the highway due to cars travelling in those lanes near her vehicle. Thus, Jakubcin's testimony "raises a triable issue as to whether [s]he was entitled to expect that traffic would continue unimpeded" (*Richards v Mitchell*, 172 AD3d 439, 439-440 [1st Dept 2019]; *see also* *Romero*, 198 AD3d at 497). Further, there was evidence that plaintiffs' car was not working and had no lights or emergency lights activated (*see* *Romero*, 198 AD3d at 497). While Jakubcin did not plead the emergency doctrine as an affirmative defense, she was not precluded "from raising the issue in response to [plaintiffs'] summary judgment motions"

(*Richards*, 172 AD3d at 440).</p> <p>THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.</p> <p>ENTERED: May 12, 2026</p> </div> <div> <footer> <div> <p>Court Decisions</p> All Court Decisions Official Reports Service Bound Volumes Decision Search </div> <div> <p>Resources</p> RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index </div> <div> <p>About</p> About the Law Reporting Bureau About our Operations Contact Us Twitter </div> <div> <p>Quick Contact Info</p> <p>17 Lodge Street</p> <p>Albany, NY 12207</p> <p>Phone: (518) 453-6900</p> </div> </footer> </div> <div> <p>Links to or from other sites do not signify endorsement or relationship with them.</p> </div> </div>