

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

Robinson v. DeSouza

Robinson, 2026 NY Slip Op 03408 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 21579/20; Appeal Nos. 6756-6757; Case Nos. 2024-05108, 2025-05193 ·
Decided June 2, 2026

SUMMARY

The Appellate Division, First Department, held that the plaintiff, an innocent taxi passenger, was entitled to summary judgment finding no culpable conduct by her. However, the evidence raised triable issues regarding which driver caused the collision, so the court vacated the finding of liability against the City defendants and dismissed as academic the appeal concerning denial of renewal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; Kapnick, J.; González, J.; Shulman, J.; Chan, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, First Department
DECIDED	June 2, 2026
DOCKET	Index No. 21579/20; Appeal Nos. 6756-6757; Case Nos. 2024-05108, 2025-05193
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from an order granting plaintiff's motion for summary judgment on liability and appeal from a subsequent order denying the City's motion for leave to renew.
STANDARD OF REVIEW	De novo review of the summary-judgment determination and review of the denial of leave to renew; the court applied the law governing summary judgment and whether triable issues of fact existed.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	John J. Hermanowski, Metropolitan Transportation Authority, MTA Metro-North Railroad, City of New York v. Lisa M. Robinson

TOPICS

summary judgment

negligence

comparative fault

appellate procedure

mootness

PRACTICE AREAS

torts

motor vehicle negligence

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether an innocent passenger is entitled to summary judgment finding that she was not culpable for a collision.
2. Whether the innocent passenger was entitled to summary judgment imposing liability on the City defendants when the evidence presented conflicting accounts of how the collision occurred.
3. Whether the City's appeal from the denial of its motion for leave to renew was academic after the liability determination was modified.

HOLDINGS

1. An undisputedly innocent passenger cannot be found at fault under any version of the collision and is therefore entitled to summary judgment finding that she was not culpable.
2. An innocent passenger is not entitled to summary judgment against a defendant driver or vehicle owner merely by establishing the passenger's own lack of culpable conduct; the passenger must also establish the targeted defendant's liability under traditional tort principles.
3. The City's appeal from the denial of its motion for leave to renew was academic in light of the modification vacating the City's liability finding.

KEY QUOTATIONS

“There is no dispute that plaintiff was an innocent passenger and cannot be found at fault under any version of how this collision occurred.” ([*1])

“However, to obtain summary judgment against the City defendants, plaintiff was still required to establish Hermanowski's liability under traditional principles of tort liability.” ([*1])

FACTUAL BACKGROUND

Lisa M. Robinson was an innocent rear-seat passenger in a taxi owned by American United Transportation Inc. and operated by John J. DeSouza. The taxi collided with a City-owned truck operated by John J. Hermanowski. DeSouza and Hermanowski each claimed that the other improperly merged and struck the side of the other's vehicle. The evidence left triable issues concerning how the collision occurred and whether Hermanowski or the DeSouza defendants caused it.

PROCEDURAL HISTORY

Supreme Court, Bronx County, granted Lisa M. Robinson's motion for summary judgment on liability against John J. Hermanowski, the Metropolitan Transportation Authority, MTA Metro-North Railroad, and the City of New York. The Appellate Division modified the order to find only that Robinson was not culpable and vacated

the City's liability finding. The court dismissed as academic the City's appeal from the order denying its motion for leave to renew.

DISPOSITION

other

CASES CITED

- Hobbs v. MTA Bus Co., 211 AD3d 471, 472 (1st Dept 2022)
- Bajaha v. Mercy Care Transp., Inc., 172 AD3d 416, 419 (1st Dept 2019)
- Valley Natl. Bank v. Community Prot. Church of Co-op City, Inc., 245 AD3d 433, 434 (1st Dept 2026)

OPINION

Robinson v. DeSouza 2026 NY Slip Op 03408

PER CURIAM.

Robinson v DeSouza - 2026 NY Slip Op 03408 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 Robinson v DeSouza 2026 NY Slip Op 03408 June 2, 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. Lisa M. Robinson, Plaintiff-Respondent, v John J. DeSouza et al., Defendants-Respondents, John J. Hermanowski et al., Defendants-Appellants. Decided and Entered: June 02, 2026 Index No. 21579/20|Appeal No. 6756-6757|Case No. 2024-05108 2025-05193| Before: Moulton, J.P., Kapnick, GonzáLez, Shulman, Chan, JJ. Armienti, DeBellis, & Rhoden, LLP, Mineola (Vanessa M. Corchia of counsel), for appellants. Pollack, Pollack, Isaac & DeCicco, LLP, New York (Joshua Block of counsel), for Lisa M. Robinson, respondent. [*1] Order, Supreme Court, Bronx County (John A. Howard-Algarin, J.), entered on or about July 5, 2024, which, to the extent appealed from as limited by the briefs, granted plaintiff's motion for summary judgment on the issue of liability against defendants John J. Hermanowski, Metropolitan Transportation Authority, MTA Metro-North Railroad, and the City of New York (collectively, the City), unanimously modified, on the law, to grant plaintiff's motion only to the extent of finding no culpable conduct by plaintiff on the issue of liability and to vacate the finding of liability against the City, and otherwise affirmed, without costs. Appeal from order, same court and Justice, entered on or about August 5, 2025, which, to the extent appealed from as limited by the briefs, denied the City's motion for leave to renew, unanimously dismissed, without costs, as academic. Plaintiff was a passenger in the rear seat of a taxi owned by defendant American United Transportation Inc. and operated by defendant John J. DeSouza (collectively, the DeSouza defendants). The taxi and a truck owned by the City and operated by Hermanowski collided. DeSouza and Hermanowski each

claim that the other party caused the collision by improperly merging and striking the side of the other party's vehicle. There is no dispute that plaintiff was an innocent passenger and cannot be found at fault under any version of how this collision occurred. Therefore, plaintiff is entitled to summary judgment to the extent of finding that she was not culpable in connection with the collision (see *Hobbs v MTA Bus Co.* , 211 AD3d 471, 472 [1st Dept 2022]). However, to obtain summary judgment against the City defendants, plaintiff was still required to establish Hermanowski's liability under traditional principles of tort liability (*id.*). Plaintiff failed to make the requisite showing, as the evidence presented raises triable issues of fact as to how the collision occurred (see *Bajaha v Mercy Care Transp., Inc.* , 172 AD3d 416 , 419 [1st Dept 2019]). If Hermanowski's account is accepted as true, it is possible that the DeSouza defendants will be found to be solely at fault for this accident (see *Hobbs* , 211 AD3d at 472). In light of the foregoing, the City's appeal of the court's denial of their motion to renew is academic (see *Valley Natl. Bank v Community Prot. Church of Co-op City, Inc.* , 245 AD3d 433 , 434 [1st Dept 2026]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 2, 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.