

McQueen v Huntington Union Free Sch. Dist.

2021 NY Slip Op 33261(U)

September 22, 2021

Supreme Court, Suffolk County

Docket Number: Index No. 605568/2018

Judge: John H. Rouse

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This opinion is uncorrected and not selected for official publication.

Index Number: 605568/2018

SUPREME COURT - STATE OF NEW YORK
I.A.S. PART 12 - SUFFOLK COUNTY

PRESENT:

Hon. John H. Rouse
Acting Supreme Court Justice

MOTION DATE: 02/23/2021
ADJ. DATE: 08/04/2021
Mot. Seq. 003-MG

MOTION DATE: 05/12/2021
ADJ. DATE: 08/04/2021
Mot. Seq. 005-MG
e-filed full participation

Aaron T McQueen,

Plaintiff

-against-

**COUNTY CLERK
DIRECTIVE**

Huntington Union Free School District, Brendan R.
Hallahan, Huntington Coach LLC, Jonathan C Abrandt,
Janon General Contracting Corp, Angel C. Martinez, Luis
A. Castillo,

Defendants

with

DECISION & ORDER

TO:

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Upon the reading and filing of the following papers in this matter: (1) Notice of Motion (Sequence 003) by Defendants LUIS ANGEL CHAVEZ MARTINEZ s/h/a ANGEL C. MARTINEZ and LUIS A CASTILLO for An Order granting Summary Judgment in favor of the defendants, LUIS ANGEL CHAVEZ MARTINEZ s/h/a ANGEL C. MARTINEZ and LUIS A CASTILLO, pursuant to CPLR §3212, on the issue of liability, thereby dismissing the plaintiffs Jonathan Abrandt and Aaron T. McQueen's summons and complaint and all cross claims against the defendants, LUIS ANGEL CHAVEZ MARTINEZ s/h/a ANGEL C. MARTINEZ and LUIS A CASTILLO, and for such other and further relief as to the Court may deem just and proper;

(2) Notice of Motion (Sequence 005) by Defendants BRENDAN R. HALLAHAN, HUNTINGTON UNION FREE SCHOOL DISTRICT and HUNTINGTON COACH, LLC for An Order: (a) pursuant to CPLR § 3212 dismissing the plaintiff AARON T. MCQUEEN and plaintiff JONATHAN C. ABRANDT's Complaint and all cross-claims asserted against BRENDAN R. HALLAHAN, HUNTINGTON UNION FREE SCHOOL DISTRICT and HUNTINGTON COACH, LLC; and (b) awarding such other and further relief as this Court may deem just, proper and equitable under the circumstances; and

(3) e-filed documents 1-163; it is:

ORDERED that the motions (Sequence 003 and 005) by Defendants LUIS ANGEL CHAVEZ MARTINEZ s/h/a ANGEL C. MARTINEZ and LUIS A CASTILLO and Defendants BRENDAN R. HALLAHAN, HUNTINGTON UNION FREE SCHOOL DISTRICT and HUNTINGTON COACH, LLC are granted in their entirety, and it is determined that it was the negligence of Jonathan C Abrandt that was the sole proximate cause of the collision first with the Honda sedan and then with the school bus and all claims against the moving Defendants are dismissed; and it is further

ORDERED that the Count Clerk is directed to amend the caption caption of the proceeding to reflect that Angel C. Martinez has been recast as a Plaintiff, the claims that have been discontinued by Aaron T McQueen, and the claims against the moving Defendants have been dismissed such that the caption shall be as follows:

Angel C. Martinez,

Plaintiff

-against-

Jonathan C Abrandt and Janon General Contracting Corp.,

Defendants

ORDERED that Plaintiff Angel C. Martinez is directed to serve notice of this decision and order on the County Clerk in accordance with CPLR § 8019(c)

See form: <https://iappscontent.courts.state.ny.us/NYSCEF/live/forms/notice.to.county.clerk.pdf>

ENTER

DECISION

This action arises from a three-vehicle collision on New York Avenue at the intersection with Northridge Street in the Town of Huntington on January 8, 2018. The involved vehicles were: a school bus owned by Huntington Coach LLC that was operated by Brendan Hallahan; a van owned by Janon General Contracting Corp. that was operated by Jonathan Abrandt; and a 1997 Honda sedan owned by Luis Castillo and operated by Angel Martinez.

Three Actions Consolidated

On March 23, 2018, Luis Angel Chavez Martinez commenced this action against Jonathan C. Abrandt and Contracting Corp. under Suffolk County Index Number 605568-2018. On August 1, 2018 Aaron T. McQueen commenced an action against Huntington Union Free School District, Brendan R. Hallahan, Huntington Coach LLC, Jonathan C. Abrandt, Janon General Contracting Corp, Angel C. Martinez, and Luis A. Castillo under Suffolk County Index Number 615034-2018. On February 7, 2018, Jonathan C. Abrandt commenced an action against Luis A. Castillo, Angel C. Martinez, Huntington Coach LLC, Brendan R. Hallahan under Suffolk County Index Number 602615/2018. These three actions were consolidated into one action with the claims by Plaintiffs Luis Angel Chavez Martinez and Jonathan C. Abrandt recast as cross claims in the consolidated action. [See e-filed document 31.](#)

Stipulated Discontinuances

On September 10, 2021, the Plaintiff Aaron T. McQueen stipulated to the discontinuance of his claims against Defendants Luis Angel Chavez Martinez and Luis A Castillo.

On September 21, 2021, the Plaintiff Aaron T. McQueen stipulated to the discontinuance of his claims against Defendants Jonathan C. Abrandt and Janon General Contracting Corp.

Motions for Summary Judgment

Defendants Martinez and Castillo, the operator and the owner of the Honda sedan involved in this motor vehicle collision, move for summary judgment upon their contention that Defendant Jonathan C. Abrandt was the sole cause of the motor vehicle collision when he failed to yield the right-of-way and drove the van owned by Janon General Contracting Corp. westbound from Northridge Street into the northbound lane of New York Avenue causing first a collision with the movants' northbound vehicle and then a second collision with the school bus travelling southbound on New York Avenue.

Pursuant to Vehicle and Traffic Law § 1142(a), a driver entering an intersection controlled by a stop sign must yield the right-of-way to any other vehicle that is already in the intersection or that is approaching so closely as to constitute an immediate hazard. *Wolf v. Cruickshank*, 144 AD3d 1144. The driver who has the right-of-way is entitled to anticipate that other drivers will obey traffic laws that require them to yield. *Wolf v Cruickshank*, 144 AD3d at 1145. There can be more than one proximate cause of an accident, and evidence that one driver 'ran' a stop sign

does not preclude a finding that comparative negligence on the part of the other driver contributed to the accident. *Exime v Williams*, 45 AD3d 633.

Defendant Martinez testified at his deposition that he was travelling north on New York Avenue in the right lane of the two northbound lanes, his highest rate of speed was twenty-seven miles per hour (40 feet per second), Defendant Jonathan C. Abrandt drove his van into the movants' lane causing damage to the front of the Honda and the front driver's side of the van. [e-filed document 114, photographs of the vehicles at the scene.](#) Martinez first saw Defendant Abrandt's vehicle when Martinez was within fifty feet of the intersection with Northridge Street. The photograph of the Defendants van shows damage to the left front of this vehicle.



Defendants upon their motion have made a *prima facie* case that Defendant Jonathan C. Abrandt was negligent, and his negligence was the sole proximate cause of this collision.

In opposition, Defendants Jonathan C Abrandt and Janon General Contracting Corp, argue that Defendant Martinez was driving in the left of the two northbound lanes, Abrandt had brought his vehicle to a complete stop, observed northbound vehicles 400 to 500 feet to the south of the intersection, then looked to the right and back to the left and began entering the intersection to proceed southbound on New York Avenue when the collision occurred.

Defendants Jonathan C Abrandt and Janon General Contracting Corp, have failed to raise a material issue of fact that any other party is even partly at fault, and the physical damage is consistent with the movants' contentions. *See Cruz v DiSalvo*, 188 AD3d 986 (2d Dept 2020). Accordingly, Defendants Martinez' and Castillo's motion for summary judgment is granted.

Defendants Brendan R. Hallahan, Huntington Union Free School District and Huntington Coach, LLC also move for summary judgment upon their contention that Defendant Jonathan C Abrandt's negligence was the sole cause of this motor vehicle collision when he failed to yield

the right-of-way first to the vehicle operated by Angel C. Martinez, and then to the bus operated by Brendan R. Hallahan. The movants have made the same *prima facie* case that Defendant Jonathan C Abrandt was the sole cause of this motor vehicle collision when he failed to yield the right-of-way to the movants. Defendants Jonathan C Abrandt and Janon General Contracting Corp, have failed to raise a material issue of fact in opposition. Accordingly, Defendants Brendan R. Hallahan's, Huntington Union Free School District's and Huntington Coach, LLC's motion for summary judgment is granted.

Dated: September 22, 2021

ENTER:



JOHN H. ROUSE

ACTING J.S.C.

NON-FINAL DISPOSITION