

2026 WL 144456 (N.Y.Sup.) (Trial Order)

Supreme Court of New York.
New York County

Craig WURTENBERG, Plaintiff,

v.

THE CITY OF NEW YORK, The Metropolitan Transportation Authority, The New York City Transit Authority, The Long Island Railroad Company, National Railroad Passenger Corporation dba Amtrack, Mid-Town Development Limited Partnership, Defendants.

Mid-Town Development Limited Partnership, Plaintiff,

v.

Westside Livery Stables, Inc., Antonina Spina, Franca Gasperetti, John Does I, Defendants.

Nos. 155059/2016, 595561/2020.

January 12, 2026.

***1** Part 55

Decision * Order On Motion

James d'Auguste, J.S.C.

MOTION DATE 07/28/2025

MOTION SEQ. NO. 009 010

The following e-filed documents, listed by NYSCEF document number (Motion 009) 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 322, 325, 330, 331, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 357, 358, 359 were read on this motion to/for SUMMARY JUDGMENT (AFTER JOINDER).

The following e-filed documents, listed by NYSCEF document number (Motion 010) 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 326, 332, 333, 334, 335, 353, 354, 355, 356, 360, 361, 362 were read on this motion to/for SUMMARY JUDGMENT (AFTER JOINDER).

In Motion Sequence Numbers 009 and 010, defendants Mid-Town Development Limited Partnership (Midtown) and The National Railroad Passenger Corporation d/b/a Amtrak (Amtrak) seek summary judgment dismissing the complaint.

On March 20, 2015, at approximately 6:45 pm, plaintiff sustained injuries when he was injured when he slipped on a snowy sidewalk on West 38th Street in Manhattan. Defendants have shown via attestation of expert witness affidavits that there was an ongoing storm in progress (as defined by [New York City Administrative Code 16-123\[a\]](#)) at the time of plaintiff's accident. [Prince v. New York City Housing Authority, 302 A.D.2d 285, 285 \(1st Dep't 2003\)](#). Plaintiff asserts that there was no snow falling at the time of the accident, but the storm-in-progress doctrine provides landowners a four-hour window from the cessation of the inclement weather. Here, as noted by defendants' experts, meteorological data shows that there was significant snowfall within a

two-hour-period preceding the subject accident, which continued into that evening. Additionally, plaintiff's direct claims against Amtrak are also dismissed because this defendant did not own the premises, and any special use it made of the property was not a proximate cause of plaintiff's accident. [Trent-Clark v. City of New York, 114 A.D.3d 558, 559 \(1st Dep't 2014\)](#).

In reply papers, defendants have requested that the Court impose sanctions based upon plaintiff's misrepresenting the factual record and relying upon fictitious legal authority. Having reviewed plaintiff's opposition papers, the Court is constrained to agree that, at a minimum, plaintiff's opposition contains (consistent with the misuse of a generative artificial intelligence program) non-existent legal authority and several cases that do not stand for the proposition for which they are cited. Nonetheless, the Court, in the exercise of its discretion, declines to impose sanctions in the absence of a formal motion seeking this relief. Nonetheless, the Court reminds plaintiff's counsel that he has a professional and ethical obligation to verify all AI-generated data before this material can be used in a court submission and cautions him that a future failure to abide by this obligation will result in sanctions being imposed.

***2** Accordingly, the motions for summary judgment are granted. The Clerk is directed to enter judgment dismissing the action against the moving defendants with prejudice.

This constitutes the decision and order of the Court.

1/12/2026

DATE

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James d'Auguste, J.S.C.