

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

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|----------------------------|---|---------------|
| Mary Jones, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 19 L 3735 |
| |) | |
| Chicago Transit Authority, |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM OPINION AND ORDER

A common carrier owes the highest duty of care to its passengers for their safety. The record raises a question of material fact as to whether the defendant's employee decelerated the bus she was driving in an unsafe fashion and caused the plaintiff's fall and alleged injuries. For those reasons, the defendant's summary judgment motion must be denied.

Facts

On July 26, 2018, Mary Jones was a passenger in a Chicago Transit Authority bus traveling east on East 63rd Street. As the bus approached South Martin Luther King Jr. Drive, Jones left her seat and walked toward the front of the bus in preparation to get off. Before she could reach the door, Jones fell to the floor and was allegedly injured.

On December 2, 2020, Jones filed an amended complaint bringing a single negligence cause of action against the CTA. Jones alleges that the CTA, as a common carrier, owed her the highest duty of care for her safety. She claims the CTA breached its duty because the bus driver: (1) suddenly applied the brakes, forcing the bus to come to an abrupt stop; (2) failed to keep the bus under proper and sufficient control; (3) failed to keep a proper

lookout for other vehicles; and (4) drove too fast in violation of Illinois Vehicle Code 625 ILCS 5/11-601(a). Jones alleges that one or more of these acts or omissions proximately caused her to fall and sustain injuries.

The parties conducted written and oral discovery before Jones filed her amended complaint. On December 2, 2020, the CTA filed its summary judgment motion. The CTA presents two arguments: (1) it did not breach any duty owed to Jones; and (2) the bus's movement did not proximately cause Jones to fall.

Jones testified that she held onto pole supports as she walked toward the front of the bus. She said that she was holding onto a pole support immediately before the bus jerked. She does not know why the bus jerked or what the bus driver saw. Jones does not know whether there were any other vehicles in the street.

Aleeah Thurmond, the bus driver, testified that she was travelling between 20 and 25 miles per hour on East 63rd Street. About a half block before South King Drive, Thurmond saw a police car driving into the intersection with its emergency lights activated, but she did not hear a siren. Thurmond testified that she slightly pressed the brake and coasted to let the police car clear the intersection. Thurmond also testified, however, that she hit the brakes and came to an abrupt stop.

The CTA attached to its motion a video stream taken from various cameras aboard the bus. The first clip is taken from the front of the bus looking forward and shows a Chicago Police Department squad car entering the East 63rd Street and South King Drive intersection with the vehicle's emergency lights activated. The squad car passes through the intersection and continues south on South King Drive. The clip shows the bus slowing and establishes that the bus stopped at 19:04:32, after passing through the intersection.

The second video clip is taken from a camera positioned in the bus ceiling next to the driver and looking backward into the

bus. The clip shows Jones getting out of her seat at 19:04:10 and begin walking in the aisle to the front of the bus. Jones is holding a purse and a shopping bag in the crook of her right elbow and using her left hand to hold onto two different hanging straps as she walks. Beginning at 19:04:16, Jones is walking in the aisle without holding onto a strap or a vertical bar. Her pace picks up, and she then collides with a man who is executing squats while holding onto the two vertical bars next to the luggage area. Jones falls to the floor of the bus at 19:04:19.

The third video clip is taken from the ceiling above the front door looking towards the bus driver. This clip presents from a different view the same events depicted in the second video clip.

The video clips include real-time speed and brake indicators in the upper, right-hand corner of images. The court reviewed the indicators and notes the following information:

| <u>Time</u> | <u>Speed</u> | <u>Indicator</u> |
|-------------|--------------|------------------|
| 19:04:10 | 21.70 | |
| 19:04:11 | 21.40 | |
| 19:04:12 | 21.70 | |
| 19:04:13 | 22.40 | |
| 19:04:14 | 22.80 | |
| 19:04:15 | 22.20 | |
| 19:04:16 | 21.20 | Brakes |
| 19:04:17 | 16.70 | Brakes |
| 19:04:18 | 12.90 | Brakes |
| 19:04:19 | 10.40 | Brakes |

These figures show that during the five-second span between 19:04:14 and 19:04:19, the bus decelerated by 12.40 miles per hour.

Analysis

The Code of Civil Procedure authorizes the issuance of summary judgment “if the pleadings, depositions, and admissions

on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 735 ILCS 5/2-1005. The purpose of summary judgment is not to try a question of fact, but to determine whether one exists that would preclude the entry of judgment as a matter of law. *See Land v. Board of Ed. of the City of Chicago*, 202 Ill.2d 414, 421, 432 (2002). A defendant moving for summary judgment may disprove a plaintiff’s case by introducing affirmative evidence that, if uncontroverted, would entitle the defendant to judgment as a matter of law. This is the so-called “traditional test.” *See Purtil v. Hess*, 111 Ill. 2d 229, 240-41 (1986).

To determine whether a genuine issue as to any material fact exists, a court is to construe the pleadings, depositions, admissions, and affidavits strictly against the moving party and liberally in favor of the opponent. *See Adams v. N. Ill. Gas Co.*, 211 Ill. 2d 32, 43 (2004). The inferences drawn in favor of the non-movant must, however, be supported by the evidence. *Destiny Health, Inc. v. Connecticut Gen’l Life Ins. Co.*, 2015 IL App (1st) 142530, ¶ 20. A triable issue precluding summary judgment exists if the material facts are disputed, or if the material facts are undisputed but a reasonable person might draw different inferences from the undisputed facts. *Id.*

The CTA argues it did not breach its duty of care owed to Jones because Thurmond drove the bus safely. Yet the undisputed speed recordings on the CTA’s video clips permit the drawing of two different inferences. The recorded speed of the bus shows that it decelerated by 12.40 miles per hour in five seconds. There is nothing in the record to indicate that such a deceleration is typical or of such a slight decrease that a reasonable person would not expect a walking passenger to fall as a result. On the other hand, it is possible to infer that such a deceleration is rapid and that Thurmond was driving too fast for conditions.

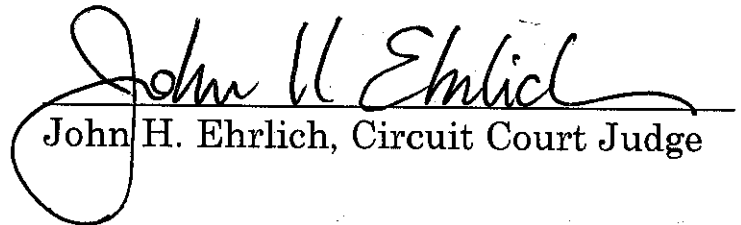
The CTA’s proximate cause argument is stronger, but still cannot overcome other questions of material fact. Jones plainly

has a significant amount of contributory negligence as the video shows she is not holding onto either a hanging strap or a vertical pole after 19:04:16, despite her testimony to the contrary. It remains an open question, however, whether Jones would have safely made it to the door had she not collided with the man performing squats in the aisle. That is a question of potential third-party contribution this court cannot answer.

Conclusion

For the reasons presented above, it is ordered that:

The CTA's summary judgment motion is denied.


John H. Ehrlich, Circuit Court Judge

Judge John H. Ehrlich

MAR 02 2021

Circuit Court 2075