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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 103 SSM 6
Rosemond Barney-Yeboah,
Respondent,
v.
Metro-North Commuter Railroad,
Appellant.

Submitted by Paul A. Krez, for appellant.
Submitted by Jason M. Murphy, for respondent.

MEMORANDUM:

The order of the Appellate Division should be reversed,
with costs, Supreme Court's order reinstated, and the certified
question answered in the negative. This is not the type of rare

case in which the circumstantial proof presented by plaintiff "is so convincing and the defendant's response so weak that the inference of defendant's negligence is inescapable" (Morejon v Rais Constr. Co., 7 NY3d 203, 209 [2006]).

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On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, order of Supreme Court, New York County, reinstated, and certified question answered in the negative, in a memorandum. Chief Judge Lippman and Judges Read, Rivera, Abdus-Salaam, Stein and Fahey concur. Judge Pigott dissents and votes to affirm for reasons stated in the memorandum at the Appellate Division (120 AD3d 1023 [2014]).

Decided April 2, 2015