

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Renwick, P.J., González, Rodriguez, O'Neill Levy, JJ.

6953

PAUL BACKER,
Plaintiff-Respondent,

Index No. 100938/23

Case No. 2025-04337

-against-

BRADFORD PARSONS, M.D.,
Defendant-Appellant.

THE MOUNT SINAI HOSPITAL,
Nonparty-Appellant.

McAloon & Friedman, P.C., New York (Gina Bernardi Di Folco of counsel), for
appellants.

Order, Supreme Court, New York County (Kathy J. King, J.), entered March 13, 2025, which denied appellants' motion for summary judgment dismissing the complaint as time-barred, unanimously reversed, on the law, without costs, and the motion granted. The Clerk is directed to enter judgment accordingly.

Defendant met its prima facie burden of demonstrating that this medical malpractice action was barred by the statute of limitations by showing that plaintiff sought no further treatment for his arm injury after he returned for a post-operative evaluation on March 15, 2021, and that he commenced the action on September 25, 2023, more than two years and six months after that date (*see* CPLR § 214-a; *Viniello v New York City Health and Hosps. Corp.*, 192 AD3d 649, 649 [1st Dept 2021]). Once defendant met its prima facie burden, it was plaintiff's burden to "demonstrat[e] the

existence of triable issues of fact with respect to application of the continuous treatment doctrine” (*id.*; see *Yanez v Watkins*, 164 AD3d 547, 549 [2d Dept 2018]).

Plaintiff failed to meet his burden. Preliminarily, we note that the record contains no indication that plaintiff submitted papers in opposition to defendant’s motion. In any event, the record includes no evidence suggesting that plaintiff sought or obtained any additional treatment for his condition after March 15, 2021. Although the medical chart from the March 15, 2021 appointment contains a note stating that plaintiff was to come back for a follow-up visit in six weeks, the record contains no evidence indicating that plaintiff ever scheduled or attended such an appointment.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: June 23, 2026

A handwritten signature in black ink, appearing to read "Susanna M. Rojas", written in a cursive style.

Susanna Molina Rojas
Clerk of the Court