

**Estevez v Wyckoff Hgts. Med. Ctr.**

2025 NY Slip Op 34641(U)

December 2, 2025

Supreme Court, Kings County

Docket Number: Index No. 515338/2018

Judge: Consuelo Mallafre Melendez

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At an IAS Term, Part 15 of the Supreme Court of the State of NY, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 2nd day of December 2025.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
CARIDAD ESTEVEZ,

Plaintiff,

-against-

**DECISION & ORDER**

Index No. 515338/2018  
Mo. Seq. 6 & 7

WYCKOFF HEIGHTS MEDICAL CENTER,

Defendant.

-----X  
**HON. CONSUELO MALLAFRE MELENDEZ, J.S.C.**

Recitation, as required by CPLR §2219 [a], of the papers considered in the review:

NYSCEF #s: Seq. 6: 68 – 69, 70 – 76, 78 – 79, 80 – 85, 86 – 87  
Seq. 7: 78 – 79, 80 – 85, 88 – 89

Defendant Wyckoff Heights Medical Center (“Wyckoff Heights”) moves for an Order, pursuant to CPLR 3212, granting summary judgment in their favor (Seq. No. 6).

Plaintiff opposes the motion and cross moves seeking an order, pursuant to CPLR 2221, to renew their prior motion for summary judgment, and upon renewal, grant summary judgment in Plaintiff’s favor on liability (Seq. No. 7).

Plaintiff commenced this action on July 27, 2018. Plaintiff alleges that on August 2, 2016, she sustained injuries to her ribs while undergoing a breast MRI, and she alleges her injuries were caused by Defendant’s general negligence and medical malpractice.

On August 2, 2016, Plaintiff underwent an MRI of her bilateral breasts, “using a dedicated breast coil with the patient in the prone position” according to the medical record. Plaintiff testified that she felt “sharp pain and heard a cracking sound” when she was placed in the MRI machine, and the technicians readjusted her cushion before completing the scan. The

following day, she visited an urgent care due to continued pain in her chest. She alleges that she sustained three fractured ribs as a result of the negligently performed MRI.

Generally, “[s]ummary judgment is the procedural equivalent of a trial and must be denied if any doubt exists as to a triable issue or where a material issue of fact is arguable. In considering a motion for summary judgment, the function of the court is not to determine issues of fact or credibility, but merely to determine whether such issues exist” (*Rivers v Birnbaum*, 102 AD3d 26, 42 [2d Dept 2012] [internal quotation marks and citations omitted]). In the context of alleged medical malpractice, “a defendant must make a prima facie showing either that there was no departure from good and accepted medical practice, or that the plaintiff was not injured by any such departure” (*Rosenzweig v Hadpawat*, 229 AD3d 650, 652 [2d Dept 2024]). “A defendant's failure to satisfy this prima facie burden requires denial of the motion, regardless of the sufficiency of the opposing papers” (*Ciceron v Gulmatico*, 220 AD3d 732, 734 [2d Dept 2023]). “Once a defendant physician has made such a showing, the burden shifts to the plaintiff to demonstrate the existence of a triable issue of fact, but only as to the elements on which the defendant met the prima facie burden. Summary judgment is not appropriate in a medical malpractice action where the parties adduce conflicting medical expert opinions.” (*Rosenzweig* at 652 [2d Dept 2024] [internal quotation marks and citations omitted].) However, “expert opinions that are conclusory, speculative, or unsupported by the record are insufficient to raise a triable issue of fact” (*Wagner v. Parker*, 172 AD3d 954, 966 [2d Dept. 2019]).

In support of their motion (Seq. No. 6), Defendant focuses on the issue of proximate causation. Defendant submits an affidavit from Joanna Urquiyo, a Radiology Administrative Director at Wyckoff Heights, based on her personal knowledge of the equipment at issue and her expertise as an MRI technologist and supervisor.

Ms. Urquijo avers that the MRI machines used at Wyckoff Heights “do not move and do not press down on a patient during a breast MRI.” She states, “The patient is placed face down on a stretcher, with cushions placed on the stretcher, and the patient is then moved into the MRI machine for the study. The machine never touches the patient.”

The movants also note that there is no record in the Wyckoff Heights chart that the patient made complaints during the study, that it was interrupted, or that there was blurriness or difficulty reading the imaging. In her deposition, the technologist Susanna Mai denied that she ever knew of a patient complaining of a “cracking sound” or pain, and she testified that such a test would be stopped because it would result in a blurred image.

The movants also submit records from ModernMD, the urgent care visited by Plaintiff on August 3, 2016. On the day after the MRI, these records show she was diagnosed with a contusion of the right front wall of the thorax with “pain and mild tenderness,” but her x-rays were “negative for fracture” and showed no evidence of soft tissue swelling, pneumothorax, or other acute changes. She was prescribed a pain reliever and advised for rest, drink fluids, and follow up with a primary care physician.

Based on these submissions, this Court finds that Defendant has made a prima facie showing of entitlement to summary judgment, on the basis of proximate causation. The movants did not offer any expert opinion as to the standard of care, and the submitted affidavit from Ms. Urquijo is conclusory with respect to whether placement in a stationary MRI machine with a breast coil could ever result in injuries such as rib fracture.

Notwithstanding, the Court accepts the urgent care medical records from ModernMD which show no evidence of rib fracture. Plaintiff stated in her personal affidavit that “on or about August 4, 2016, x-rays showed I had 3 fractured ribs caused by Defendant’s negligence,” but to this date they have never produced these alleged x-ray images, nor provided any other medical

evidence demonstrating Plaintiff sustained such injuries. As noted by the movants, “three (3) fractured right anterior lower ribs” is the only injury stated in Plaintiff’s bill of particulars, but the records and radiological report from ModernMD directly contradict this claimed injury.

Accordingly, the movant has established prima facie that Plaintiff did not sustain her alleged injury as the result of their negligence or malpractice, and the burden shifts to Plaintiff to raise an issue of fact.

In opposition, Plaintiff submits an affidavit in opposition from David Gross, Ph.D. and Eric Anttila, Ph.D. They state that they are biomedical engineers with extensive background in MRI safety, and they affirm that there have been numerous reported patient injuries linked to MRI machines, specifically the use of breast coils, wherein “the patient may experience friction, pain, rib fractures, contusions, bruises, abrasions, and/or dyspnea.”

Defendant correctly notes in their reply that Defendant’s biomedical engineers have not identified the breast coil or other equipment used *in this case* are linked to any reported injuries, and their opinions are therefore conclusive and speculative.

Furthermore, Plaintiff’s experts do not address or raise any issue of fact to counter the movant’s prima facie showing that Plaintiff did not sustain a rib fracture, as evidenced by her ModernMD records. Plaintiff asserts in a conclusory manner that there have been “similar incidents involving patients sustaining rib fractures, the exact injuries sustained by Plaintiff in the instant case, during the identical procedure and using similar MRI machines.” However, they simply refuse to address Plaintiff’s x-rays which were “negative” for fracture the following day. They offer no x-rays, CT scans, or physician’s affirmation to support the claim the MRI incident proximately caused “three fractured ribs,” the sole injury asserted in her bill of particulars.

Plaintiff has raised no triable issue of fact with respect to the claim that her treatment at Wyckoff Heights proximately caused the alleged injury of fractured ribs. Accordingly, Wyckoff Heights' motion for summary judgment is **granted** and the action is dismissed in its entirety.

As to Plaintiff's cross motion (Seq. No. 7), this is the second motion Plaintiff has made for summary judgment. Contrary to Plaintiff's claim that the prior decision was "without prejudice to renew after discovery was complete," the decision and order of the Hon. Marsha Steinhardt dated February 6, 2020 expressly stated that "After oral argument, Plaintiff's motion for summary judgment is *in all respects denied*." Thus, this cross motion is an improper attempt at a successive summary judgment motion, and Plaintiff has made no showing pursuant to CPLR 2221 (e) that there are "new or additional facts" and a reasonable justification for not presenting those facts at the time of the original motion (*Rowe v NYCPD*, 85 AD3d 1001 [2d Dept 2011]). For this reason, Plaintiff's cross motion for summary judgment is **denied**, and even if considered, it is rendered moot by the decision on Defendant's motion herein.

Accordingly, it is hereby:

**ORDERED** that Defendant Wyckoff Heights' motion for summary judgment (Seq. No. 6) is **granted**, and this action is dismissed in its entirety; and it is further

**ORDERED** that Plaintiff's cross motion for summary judgment (Seq. No. 7) is **denied**.

The Clerk shall enter judgment in favor of WYCKOFF HEIGHTS MEDICAL CENTER.

This constitutes the decision and order of this Court.

ENTER.



Hon. Consuelo Mallafre Melendez  
J.S.C.