

Brovykh v Tatis

2025 NY Slip Op 35139(U)

December 24, 2025

Supreme Court, Kings County

Docket Number: Index No. 512329/2020

Judge: Patria Frias-Colón

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF KINGS Part 80
 HON. PATRIA FRIAS-COLÓN, J.S.C.

-----X
 Nikolay Brovykh,

Index # 512329/2020
 Cal. #s 3-4 Mot. Seq. #s 8-9

PLAINTIFFS,

-against-

Jamie Tatis PT, DPT, MCMT, Brighton One
 Physical Therapy, Davit Japharidze, Intermed
 Care P.C., Boris Mazurov M.D., Mazurov
 Medical, P.C.,

DECISION/ORDER

Recitation as per CPLR §§ 2219(a) and/or
 3212(b) of papers considered on review of
 this motion:

NYSCEF Doc #s 174-190, 226-228 by Def. Dr.
 Tatis

NYSCEF Doc #s 191-213, 229-239 by Defs. Mr.
 Japharidze, Intermed, Dr. Mazurov, and Mazurov
 Medical, P.C.

DEFENDANTS.

NYSCEF Doc #s 216-225 by Plaintiff
 -----X

Upon the foregoing cited papers and after oral argument on November 18, 2025, pursuant to CPLR § 3212, the motions for summary judgment filed by Defendants Jamie Tatis, PT, DPT, MCMT, (Motion Sequence #8) and Davit Japharidze, Intermed Care, P.C. (“Intermed”), Boris Mazurov, M.D., and Mazurov Medical, P.C., (Motion Sequence #9), are GRANTED in part and DENIED in part.

BACKGROUND

On November 1, 2019, Plaintiff consulted his primary care physician, Defendant Dr. Mazurov, at Intermed for leg and left shoulder pain.¹ After evaluating Plaintiff, Dr. Mazurov referred Plaintiff to physical therapy,² where Plaintiff was evaluated by Dr. Tatis the same day.³ During that appointment, Plaintiff complained of lower back and shoulder pain.⁴

On November 21, 2019, Plaintiff returned for physical therapy.⁵ Plaintiff alleges that Mr. Japharidze, a physical therapy aide, came up from behind Plaintiff, grabbed his elbow with both hands, and with utmost strength pulled his elbow upwards.⁶ As a result, Plaintiff alleges physical Defendant Japharidze forcibly manipulated his elbow, causing a torn rotator cuff and other injuries.⁷

Plaintiff commenced this action on July 13, 2020, by filing Summons and Complaint

¹ NYSCEF Doc. # 193.

² See *id.* at 1 (Dr. Boris Mazurov, M.D., was plaintiff’s primary care physician at Intermed, which consisted of a medical office and a physical therapy office).

³ NYSCEF Doc. # 193.

⁴ NYSCEF Doc. # 208.

⁵ *Id.*

⁶ NYSCEF Doc. # 175 ¶ 24.

⁷ *Id.* ¶ 5; NYSCEF Doc. # 193.

asserting negligence, medical malpractice, and negligent hiring/supervision.⁸ An amended complaint was filed on October 7, 2021, which added claims for lack of informed consent, deceptive practices, fraud, and unauthorized practice of medicine.⁹ Defendants moved for summary judgment in July 2025;¹⁰ Plaintiff opposed in October 2025.¹¹

STANDARD OF REVIEW

Summary Judgment

Summary judgment is a drastic remedy that deprives a litigant of the opportunity to present their case at trial and is appropriate only where no genuine issue of material fact exists. *Bonaventura v. Galpin*, 119 A.D.3d 625, 625 (2d Dept. 2014). The Court's role on such a motion is not to resolve factual disputes or assess credibility, but solely to determine whether triable issues exist. *Stukas v. Streiter*, 83 A.D.3d 18, 23 (2d Dept. 2011). In making this determination, the evidence must be viewed in the light most favorable to the non-moving party. *Pearson v. Dix McBride, LLC*, 63 A.D.3d 895, 895 (2d Dept. 2009).

Medical Malpractice

Medical malpractice is a negligent act or omission by a healthcare provider that constitutes medical treatment or bears a substantial relationship to the rendition of medical treatment by a licensed physician to a particular patient. *Butler v. Wyckoff Heights Med. Ctr.*, 233 A.D.3d 745, 747 (2d Dept. 2024). In medical malpractice actions, a defendant bears the initial burden of establishing either no departure from accepted practice or that any departure did not proximately cause the injury. *Gupta v. Lescale*, 224 A.D.3d 668 (2d Dept. 2024); *Dye v. Okon*, 203 A.D.3d 702, 703 (2d Dept. 2022). If defendant meets this burden, plaintiff must raise a triable issue through competent medical evidence. *Cerrone v. N. Shore-Long Is. Jewish Health Sys., Inc.*, 197 A.D.3d 449, 450 (2d Dept. 2021). Conflicting expert opinions preclude summary judgment. *Mendoza v. Maimonides Med. Ctr.*, 203 A.D.3d 715, 716 (2d Dept. 2022).

DISCUSSION

Motion Sequence #8: Defendant Dr. Tatis

Dr. Tatis submitted expert affirmation from Brian V. Becker, M.A., P.T., opining that care was within accepted standards and not causally related to Plaintiff's injuries.¹²

⁸ NYSCEF Doc. # 195. The additional cause of action on behalf of Plaintiff Alla Prokopova was dismissed with prejudice as she was discontinued from the case on April 24, 2025. *See* NYSCEF Doc. # 152.

⁹ NYSCEF Doc. # 89.

¹⁰ NYSCEF Doc. #s 174-190.

¹¹ NYSCEF Doc. #s 216-225.

¹² NYSCEF Doc. # 176.

Specifically, Mr. Becker concluded:

- Dr. Tatis appropriately supervised and instructed Mr. Japharidze on his duties and responsibilities.
- Dr. Tatis' care and treatment of Plaintiff was within the standard of care and not the proximate cause of Plaintiff's injuries.
- Dr. Tatis did not negligently perform physical therapy on November 1, 2019 and November 21, 2019.
- Dr. Tatis properly performed diagnostic testing, appropriately prescribed medication, and referred Plaintiff for further diagnostic imaging, such as an MRI.
- Dr. Tatis did not fail to refer Plaintiff to a specialist for further evaluation and treatment.
- Dr. Tatis was a properly qualified physical therapist.
- Dr. Tatis' recordkeeping complied with the applicable standard of care for physical therapists.
- Dr. Tatis obtained verbal informed consent, which was properly documented in the physical therapy records.

Plaintiff's expert, Yevgeny Onefator, D.P.T., disputed these conclusions, asserting failures in diagnosis, supervision, informed consent, and recordkeeping.¹³ Dr. Onefator addressed Mr. Becker's conclusions and opined that:

- Dr. Tatis failed to properly diagnose and treat Plaintiff's left shoulder pain on November 1, 2019.
- Dr. Tatis failed to communicate and ascertain Plaintiff's left shoulder pathology with the treating physician, Dr. Mazurov and Intermed.
- Dr. Tatis failed to perform a physical evaluation of the Plaintiff upon receiving a complaint of right shoulder pain, before performing an act of physical therapy.
- Dr. Tatis improperly delegated physical therapy treatment to unlicensed aide, Mr. Japahridze.
- Dr. Tatis failed to supervise and train Mr. Japharidze.
- Dr. Tatis failed to secure informed consent from Plaintiff for treatment on November 21, 2019.
- Dr. Tatis failed to properly maintain records of medical treatment.

Through the expert affirmation of Dr. Onefator, Plaintiff raised triable issues of fact that preclude summary judgment.¹⁴ *See Cerrone*, 197 A.D.3d at 450. Accordingly, Defendant Dr. Tatis' Motion for Summary Judgment is granted as to the following claims:

- Failure to prescribe medication.
- Failure to render emergency medical care to Plaintiff on November 21, 2019.
- Failure to refer Plaintiff to diagnostic imaging, such as an MRI.
- Failure to be a properly qualified physical therapist .

¹³ NYSCEF Doc. # 222.

¹⁴ *See id.*

- Failure to refer the Plaintiff to another specialist prior to rendering physical therapy on his left shoulder.
- Negligently performing the act of physical therapy on the Plaintiff's left shoulder on November 21, 2019.¹⁵
- Negligently hiring Defendant Davit Japharidze.

The summary judgment motion is denied as to the remainder of Plaintiff's claims, including negligent supervision and informed consent.

Motion Sequence #9: Defendants Japharidze, Intermed, Dr. Mazurov, Mazurov Medical, P.C.

In support of their summary judgment motion, these Defendants submitted the expert affirmation of Stuart B. Kahn, M.D.¹⁶ who concluded there were no deviations from the accepted standards of care and no causal connection related to Plaintiff's injuries.¹⁷ Dr. Kahn opined that:

- Dr. Mazurov, as an internal medicine doctor, properly evaluated and diagnosed Plaintiff's claims of shoulder pain on November 1, 2019.
- Dr. Mazurov was not negligent when he referred Plaintiff to physical therapy and did not refer Plaintiff for further imaging, including an MRI.
- Dr. Mazurov appropriately referred Plaintiff to Dr. Tatis, a specialist trained to evaluate and address complaints of shoulder pain.
- Defendants did not negligently render physical therapy to Plaintiff's left shoulder at Intermed.
- Defendants did not negligently fail to communicate and ascertain Plaintiff's shoulder injury.
- Defendants did not negligently fail to render emergency medical care to plaintiff when the alleged injury occurred on November 21, 2019.
- Defendants did not negligently fail to schedule further evaluation of plaintiff after November 21, 2019.
- After Plaintiff informed Dr. Mazurov of his November 21, 2019, injury during physical therapy, Dr. Mazurov properly referred Plaintiff for a left should MRI and an orthopedic surgeon.
- Defendants appropriately trained and supervised Mr. Japharidze.

In opposition, Plaintiff offered the expert affirmation of Dr. Onefator¹⁸ who did not rebut opinions regarding Dr. Mazurov and Mazurov Medical, P.C.¹⁹ Therefore, Defendants Dr. Mazurov and Mazurov Medical, P.C., have established their *prima facie* entitlement to summary judgment. Accordingly, summary judgment (Motion Sequence #9) is granted as to Defendants Dr. Mazurov and Mazurov Medical, P.C. Therefore, as to these Defendants, the case is dismissed with prejudice.

¹⁵ Plaintiff concedes that Dr. Tatis did not touch or otherwise perform physical therapy on him on November 21, 2019.

¹⁶ NYSCEF Doc. # 194.

¹⁷ *See id.*

¹⁸ NYSCEF Doc. # 224.

¹⁹ *See id.*

As to Defendants Mr. Japharidze and Intermed, Plaintiff submitted competent medical evidence to raise a triable issue of fact. *See Cerrone*, 197 A.D.3d at 450. As such, summary judgment is granted as to the following claims:

- Failure to refer Plaintiff for an MRI of the left shoulder
- Failure to render emergency medical care to Plaintiff on November 21, 2019
- Allowing the Plaintiff's condition to worsen
- Failure to prescribe and/or administer medication
- Lack of informed consent

However, the motion for summary judgment is denied as to the remainder of Plaintiff's claims against Defendants Japharidze and Intermed.

This constitutes the Decision and Order of the Court.

Date: December 24, 2025
Brooklyn, New York



Hon. Patria Frias-Colón, J.S.C.