

Barreto v New York City Health & Hosps. Corp.

2026 NY Slip Op 30525(U)

January 28, 2026

Supreme Court, New York County

Docket Number: Index No. 805257/2020

Judge: Kathy J. King

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. KATHY J. KING **PART** **06**

Justice

-----X

EDDIE BARRETO,

Plaintiff,

- v -

NEW YORK CITY HEALTH AND HOSPITALS
CORPORATION,

Defendant.

-----X

INDEX NO. 805257/2020

MOTION DATE 11/07/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20

were read on this motion to/for AMEND CAPTION/PLEADINGS.

Upon the foregoing documents, and there being no opposition made thereto, Plaintiff moves, pursuant to CPLR 3025, 1015 and 1021, for an Order:

- 1) granting Plaintiff leave to amend the complaint and notice of claim to add a Wrongful Death Cause of Action in connection with the death of plaintiff's decedent EDDIE BARRETO;
- 2) Amending the caption to reflect that EDDIE BARRETO is now deceased and that MANDEE PADILLA has been appointed as Administrator of his Estate;
- 3) Substituting MANDEE PADILLA as Administrator of the Estate of EDDIE BARRETO, as plaintiff, instead and in place of "EDDIE BARRETO";
- 4) Allowing the Amended Summons and Complaint to be served unto Defendants;
- 5) Granting Leave to accordingly serve an Amended Notice of Claim;
- 6) Granting Leave to file a Late Notice of Medical Malpractice.

Defendant does not oppose the instant motion.

BACKGROUND

This action arises out of the alleged medical malpractice of Defendants during patient decedent Eddie Barreto (the “Decedent”) care and treatment at Bellevue Hospital from April 14, 2019, to August 6, 2019. The gravamen of Plaintiff’s allegations is that Defendants were negligent in failing to timely diagnose and treat Decedent’s stroke.

This action was commenced by the filing of a Summons and Complaint on or about August 21, 2020.

Decedent-original Plaintiff passed away on May 28, 2022.

Mandee Padilla obtained Letters of Administration on January 6, 2023, duly appointing her as the Administrator of the Estate of the Decedent (see NYSCEF Doc. No 17).

The previous law firm on record sent a letter on October 3, 2025, informing the family of the Decedent of their intent to stop their representation. At such time, the complaint was not amended to mention a wrongful death cause of action; similarly, the caption was not amended to reflect the death of the original Plaintiff Eddie Barreto. Decedent’s family retained new legal counsel on October 22, 2025.

As such, Plaintiff now makes this motion, without opposition, to amend and substitute to amend the Complaint and Notice of Claim to add a wrongful death cause of action, to substitute “Mandee Padilla, as Administrator of the Estate of Eddie Barreto” as Plaintiff, and to amend the caption accordingly.

DISCUSSION

Here, Plaintiff is seeking, inter alia, to amend and substitute to amend the Complaint and Notice of Claim to add a wrongful death cause of action, to substitute “Mandee Padilla, as Administrator of the Estate of Eddie Barreto” as Plaintiff, and to amend the caption accordingly.

It is well settled that CPLR 3025(b), in its relevant part, provides that a party may amend his or her pleading, or supplement it by setting forth additional transactions or occurrences, at any time by leave of court, which shall be freely given upon such terms as may be just. Further, “permission to amend a pleading should be 'freely given' where the proposed amendment is neither palpably insufficient nor patently devoid of merit, and there is no evidence that the amendment would prejudice or surprise the opposing party" (*see Krakovski v Stavros Assoc., LLC*, 173 AD3d 1146, 1147, 103 NYS3d 553 [2019], *see also Davis v South Nassau Communities Hosp.*, 26 NY3d 563, 580, 26 NYS3d 231, 46 NE3d 614 [2015]).

Furthermore, the Court notes that Defendant offers no opposition to the remaining requested relief.

Accordingly, and based on the foregoing, it is hereby

ORDERED, that Plaintiff's motion is granted; and it is further

ORDERED, that Plaintiff is to file the Supplemental Summons and Verified Amended Complaint within twenty (20) days of the date of this Order; and it is further

ORDERED, that Plaintiff is to file an Amended Notice of Claim and Notice of Medical Malpractice, *nun pro tunc*, within twenty (20) days of the date of this Order; and it is further

ORDERED, that the Supplemental Summons and Verified Amended Complaint, the Amended Notice of Claim, and the Late Notice of Medical Malpractice, shall be deemed served upon the Defendant NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, by the Plaintiff E-Filing the same on the electronic court filing system (“NYSCEF”); and it is further

ORDERED, that the Plaintiff is directed to serve a copy of this Order upon the Defendant NEW YORK CITY HEALTH AND HOSPITALS CORPORATION by first class regular mail to their last known address within twenty (20) days of the date of this Order; and it is further

ORDERED, that such service upon the Clerk of the Court be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website) by the Plaintiffs’ counsel within twenty (20) days of the date of this Order; and it is further

ORDERED, that the Clerk is directed to enter judgment in accordance with this Order and shall amend the caption to read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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MANDEE PADILLA as Administrator of
the Estate of EDDIE BARRETO, Deceased,
and on behalf of All Distributees and Next-of-Kin
including MANDEE PADILLA, Individually,

Index No.: 805257/2020

Plaintiff,

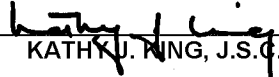
-against-

NEW YORK CITY HEALTH AND HOSPITALS
CORPORATION,

Defendant.

-----X

This constitutes the Decision and Order of the Court.

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|-----------------------|---|---|--|
| 1/28/2026 DATE | | |  KATHY J. KING, J.S.C. |
| CHECK ONE: | <input type="checkbox"/> CASE DISPOSED | <input checked="" type="checkbox"/> NON-FINAL DISPOSITION | |
| | <input checked="" type="checkbox"/> GRANTED | <input type="checkbox"/> DENIED | <input type="checkbox"/> OTHER |
| APPLICATION: | <input type="checkbox"/> SETTLE ORDER | <input type="checkbox"/> SUBMIT ORDER | |
| CHECK IF APPROPRIATE: | <input type="checkbox"/> INCLUDES TRANSFER/REASSIGN | <input type="checkbox"/> FIDUCIARY APPOINTMENT | <input type="checkbox"/> REFERENCE |