

<b>Tandy v Jopal Bronx, LLC</b>
2026 NY Slip Op 30549(U)
February 10, 2026
Supreme Court, New York County
Docket Number: Index No. 153427/2023
Judge: James G. Clynes
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JAMES G. CLYNES PART 39M

Justice

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INDEX NO. 153427/2023

BARBARA TANDY, BARBARA TANDY,

05/16/2025,

Plaintiff,

MOTION DATE 05/19/2025

- v -

MOTION SEQ. NO. 001 002

JOPAL BRONX, LLC D/B/A WORKMEN'S
CIRCLE MULTICARE CENTER, MOUNT SINAI HEALTH
SYSTEM, INC., MOUNT SINAI WEST,

DECISION + ORDER ON
MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 32, 33, 34, 36

were read on this motion to/for DISMISS

The following e-filed documents, listed by NYSCEF document number (Motion 002) 12, 13, 14, 15, 17, 29, 31, 35, 37

were read on this motion to/for DISMISS

Upon the foregoing documents, defendant JOPAL BRONX, LLC D/B/A WORKMEN'S CIRCLE MULTICARE CENTER moves pursuant to CPLR 3211 (a)(8) alleging that the Court lacks personal jurisdiction because the plaintiff's failure to serve process of the Summons and Complaint within 120 days of filing pursuant to CPLR § 306-b; and alternatively, pursuant to CPLR 3211(a)(5), E.P.T.L. 5-4.1(1), and 214-a, dismissing the cause of action sounding in medical malpractice, negligence, wrongful death and based on the plaintiff's unreasonable neglect to prosecute (Motion Sequence Number 001). Defendants MOUNT SINAI HEALTH SYSTEM, INC. and MOUNT SINAI WEST similarly move pursuant to CPLR 3211 (a)(8) alleging that the Court lacks personal jurisdiction because of the plaintiff's failure to serve process of the Summons and Complaint within 120 days of filing pursuant to CPLR 306-b, severing the claims against MOUNT SINAI HEALTH SYSTEM, INC. and MOUNT SINAI WEST from the caption and

directing the clerk to enter judgment, with prejudice, in favor of defendants, MOUNT SINAI HEALTH SYSTEM, INC. and MOUNT SINAI WEST, or alternatively dismissing the complaint pursuant to C.P.L.R. § 3211(a)(3) and EPTL § 5-4.1, on the grounds that plaintiff, BARBARA TANDY, as Proposed Administrator of the Estate of decedent Georgeanne Minor does not have the requisite legal capacity and/or standing to commence and/or maintain the instant action (Motion Sequence Number 002). Motion Sequence Numbers 001 and 002 are consolidated for this decision and are decided as follows.

Plaintiff seeks damages for the pain and suffering as well as the wrongful death of Georgeanne Minor. Plaintiff contends that defendants committed medical malpractice in their treatment of her stage four sacral pressure ulcer which is alleged to have worsened and become infected under the defendants' care.

Following the defendants' filing their motions to dismiss, plaintiff filed an opposition to both motions and a cross-motion contending she did not serve the defendants within 120-days due to awaiting being appointed as administrator of Georgeanne Minor's estate and requests an extension of time to serve the defendants nunc pro tunc for good cause shown and in the interest of justice.

Pursuant to CPLR 306-b Service of the summons and complaint, summons with notice, third-party summons and complaint, or petition with a notice of petition or order to show cause shall be made within one hundred twenty days after the commencement of the action or proceeding, provided that in an action or proceeding, except a proceeding commenced under the election law, where the applicable statute of limitations is four months or less, service shall be made not later than fifteen days after the date on which the applicable statute of limitations expires. If service is not made upon a defendant within the time provided in this section, the court, upon

motion, shall dismiss the action without prejudice as to that defendant, or upon good cause shown or in the interest of justice, extend the time for service

Here, plaintiff failed to establish proper service upon defendants and failed to establish that good cause is shown affording an extension nunc pro tunc or that granting such relief is in the interest of justice.

Firstly, despite the length of time plaintiff took to be appointed as an administrator of Georgeanne Minor's estate, plaintiff nevertheless took nearly five months to then serve the defendants. While good cause for an extension requires reasonable diligence in trying to effect service within 120-days, the near five-month delay from appointment as an administrator of the estate to then serve the defendants does not support a showing of reasonable diligence and leaves the court without jurisdiction over the defendants.

Secondly, the Court is not persuaded by plaintiff's assertion that an extension nunc pro tunc should be granted as the defendants will not be prejudiced by the delay in being notified of this action being commenced. Georgeanne Minor passed away on May 8, 2021, plaintiff commenced this action and subsequently moved to be the administrator of Ms. Minor's estate on April 14, 2023. Plaintiff was appointed the administrator of Ms. Minor's estate on December 4, 2024. The defendants were not served until approximately five months later. In addition to the delay in plaintiff being appointed as administrator, there was a significant delay resulting in prejudice the defendants.

The Court need not address the remaining alternative relief requested by the defendants. Accordingly, it is hereby

ORDERED the motions by defendants JOPAL BRONX, LLC D/B/A WORKMEN'S CIRCLE MULTICARE CENTER (Motion Sequence Number 001), MOUNT SINAI HEALTH

SYSTEM, INC. and MOUNT SINAI WEST (Motion Sequence Number 002) pursuant to CPLR 3211 (a)(8) to dismiss Plaintiffs' Complaint against them is granted, and the complaint is dismissed in its entirety as against said defendants and the clerk is directed to enter judgment accordingly in favor of said defendants; and it is further

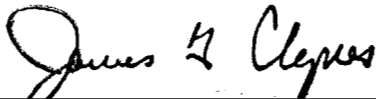
ORDERED that plaintiff's cross-motion requesting an extension of time to serve the defendants nunc pro tunc for good cause being shown and in the interest of justice is denied; and it is further

ORDERED that within 30 days of entry, defendants shall serve a copy of this Decision and Order upon plaintiff with Notice of Entry; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk's Office shall 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).

This constitutes the Decision and Order of the Court.

2/10/2026  
DATE

  
JAMES G. CLYNES, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
<input type="checkbox"/>		<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: