

Doll v Arena

2026 NY Slip Op 31644(U)

April 9, 2026

Supreme Court, New York County

Docket Number: Index No. 805221/2019

Judge: Kathy J. King

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
NEW YORK COUNTY

PRESENT: HON. KATHY J. KING PART 06

Justice

-----X

STEVEN D. DOLL, as Administrator of the Estate of
KELLY POWERS,

Plaintiff,

- v -

EMILY ARENA, SAIRA MEHMOOD, JOSHUA O. MCHUGH,
CHERYL K. CHANG, MOUNT SINAI WEST

Defendant.

INDEX NO. 805221/2019

MOTION DATE 12/05/2025

MOTION SEQ. NO. 004

DECISION + ORDER ON
MOTION

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 004) 85, 86, 87, 88, 89,
90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 107, 108, 109

were read on this motion to/for DISMISS

Upon the foregoing documents, oral arguments having been heard, and no opposition by
the Plaintiff made hereto, the Defendants SAIRA MEHMOOD, M.D. ("Dr. Mehmood"), JOSHUA
O. McHUGH, M.D. ("Dr. McHugh"), CHERYL K. CHANG, M.D. ("Dr. Chang"), and ST.
LUKES-ROOSEVELT HOSPITAL CENTER s/h/a MOUNT SINAI WEST (collectively,
"moving Defendants"),¹ move for an Order, pursuant to CPLR 3212, granting summary judgment
on their behalf and dismissing Plaintiff's complaint against said Defendants.

Plaintiff submits no opposition.

A defendant physician moving for summary judgment must make a prima facie showing
of entitlement to judgment as a matter of law by establishing the absence of a triable issue of fact
as to his or her alleged departure from accepted standards of medical practice, and by establishing
that the Plaintiff was not injured by such treatment (see Alvarez v Prospect Hosp., 68 NY2d 320,
324 [1986]; Frye v Montefiore Med. Ctr., 70 AD3d 15 [1st Dept 2009]; McGuigan v Centereach

¹ Defendant, EMILY ARENA, M.D., was neither served nor appeared in this action.

Mgt. Group, Inc., 94 AD3d 955 [2d Dept 2012]; *Sharp v Weber*, 77 AD3d 812 [2d Dept 2010]; see generally *Stukas v Streiter*, 83 AD3d 18 [2d Dept 2011]). To satisfy this burden, a Defendant must present expert opinion testimony that is supported by the facts in the record, addresses the essential allegations in the complaint or the bill of particulars, and is detailed, specific, and factual in nature (see *Roques v Noble*, 73 AD3d 204, 206 [1st Dept 2010]; *Joyner-Pack v Sykes*, 54 AD3d 727 [2d Dept 2008]; *Koi Hou Chan v Yeung*, 66 AD3d 642 [2d Dept 2009]; *Jones v Ricciardelli*, 40 AD3d 935 [2d Dept 2007]).

In support of their motion, Defendants submit the medical expert affirmations of Gregory Mazarin, MD, (“Dr. Mazarin”), board-certified in Emergency Medicine, and Stanley J. Schneller, MD, (“Dr. Schneller”), board-certified in the fields of Cardiovascular Diseases and Internal Medicine, who opine, to a reasonable degree of medical certainty, that the moving Defendants did not depart from good and accepted standards of medical care in their treatment of the Plaintiff and none of the care rendered by moving Defendants proximately caused or brought about the injuries as claimed by the Plaintiff.

Specifically, Defendants’ experts collectively assert that the standard of care for Emergency Medicine requires a physician to evaluate a patient for emergent, life-threatening conditions—such as Acute Coronary Syndrome (ACS), Pulmonary Embolism (PE), or aortic dissection—and determine if the patient requires immediate intervention or can be safely managed as an outpatient. Drs. Mazarin and Schneller agree that not every complaint of chest pain necessitates a cardiology consultation in the ED; rather, the standard is met if the medical team performs a proper workup and applies appropriate clinical judgment to rule out acute pathology.

Further, Drs. Mazarin and Schneller concur that the Defendants met this standard by formulating an appropriate differential diagnosis (including GERD, gastritis, PE, and

costochondritis) and ordering objective diagnostic tests. Specifically, the Cardiology expert notes that the plaintiff's pre-existing right bundle branch block is a common, asymptomatic condition that has no relationship to pericardial effusion and was correctly identified as non-contributory to the acute presentation.

With regard to Dr. Chang, the experts highlight that Dr. Chang reviewed the initial results and documented that the plaintiff's labs were normal, with the exception of the d-dimer. The experts find this assessment accurate and consistent with the role of an ED Attending.

Further, Drs. Mazarin and Schneller opine that, upon receiving the patient, Dr. McHugh exercised appropriate medical judgment by ordering a CT Angiogram (CTA) to rule out a PE. The experts concur that while the clinical criteria suggested low risk, the elevated d-dimer made the CTA the "test of choice" to ensure patient safety.

Drs. Mazarin and Schneller note that Dr. Mehmood acted under the supervision of the Attendings, and the experts conclude her care was proper. She informed the plaintiff of the negative results for PE and MI and advised her on "return precautions." Both experts find that her request for a follow-up ultrasound for the next day was an appropriate, conservative measure for an outpatient setting.

Moreover, Drs. Mazarin and Schneller opine that the institutional care was within the standard. Drs. Mazarin and Schneller opine that the radiologist's interpretation of the CTA as having "trace" pericardial effusion was appropriate. Dr. Schneller emphasized that "trace" effusion is a normal variant and is considered "insignificant." Consequently, Dr. Schneller concludes that it did not warrant an emergent cardiology consultation or an echocardiogram, as the latter would have shown nothing beyond the trace fluid already identified.

On the matter of causation, Drs. Mazarin and Schneller agree that the trace pericardial effusion identified in April was not a “cardiac emergency” and did not cause the Plaintiff’s symptoms at that time. Dr. Schneller notes that the EKG lacked the specific markers for pericarditis (ST elevations or PR depressions), and Plaintiff lacked a pericardial “rub” or fever. Drs. Mazarin and Schneller opine that a significant factor in the defense is the Plaintiff’s own medical decision-making. Despite receiving verbal and written discharge instructions, the Plaintiff—a podiatrist—chose not to return for her ultrasound, did not see a gastroenterologist, and did not follow up with her PMD for four months. She testified she decided to “work through it,” effectively disregarding the expertise of the ED staff. Drs. Mazarin and Schneller point to records from August 2018 where the Plaintiff denied chest pain to her PMD during a routine physical, and this four-month gap, during which she was able to cycle and exercise, is medically inconsistent with ongoing, significant pericarditis. Both Drs. Mazarin and Schneller conclude that the acute condition discovered in late August was likely a new development or “acute on chronic” event unrelated to the April visit. Specifically, Dr. Schneller refutes the plaintiff’s claim that the failure to treat pericarditis led to gallbladder disease, stating there is no known medical connection between the two. Finally, the experts opine that even if a diagnosis had been made earlier, the Plaintiff’s subsequent “recurrent/chronic relapsing” pericarditis is a condition that often occurs regardless of the timing of the initial diagnosis. Therefore, any alleged delay did not change the clinical outcome or the eventual need for a pericardiocentesis.

The Court finds that the Defendants have established prima facie entitlement to judgment as a matter of law based on the expert affirmations of Drs. Mazarin and Schneller, which demonstrates that the care and treatment provided by Defendants were consistent with the standards of good and accepted medical practice at all times, and that Plaintiff’s alleged injuries

were not caused by any action or omission by the Defendants. (*Ducasse v New York City Health & Hospital Corp.*, 148 AD3d 434, 436 [1st Dept 2017]).

Once the defendant meets their burden, the burden shifts to the plaintiff, who must rebut the defendant's prima facie showing (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). "Generally, the opinion of a qualified expert that a plaintiff's injuries were caused by a deviation from relevant industry standards would preclude a grant of summary judgment in favor of the defendants" (*Murphy v Chinatown Cardiology, P.C.*, 220 AD3d 539, 540 [1st Dept 2023] [quotation marks and citations omitted]).

In this case, the Plaintiff offered no opposition, specifically failing to provide an expert affirmation. Because the Plaintiff offered no opposition or expert affirmation, s/he failed to satisfy her/his burden of rebutting the Defendants' prima facie showing (*see Gobind v Nercessian*, 227 ADsd 464 [1st Dept 2024]).

As Plaintiff has failed to establish that the moving Defendants departed from the standard of care or that any of his actions and/or inactions caused the claimed injuries, the Complaint as against Defendant ST. LUKES-ROOSEVELT HOSPITAL CENTER s/h/a MOUNT SINAI WEST must also be dismissed as the only claims against these entities are for vicarious liability.

Thus, the Court grants the Defendants' motion in its entirety.

Accordingly, it is hereby

ORDERED that the Defendants' motion is granted in its entirety; and it is further

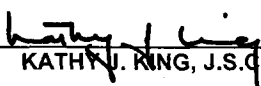
ORDERED that the Plaintiff's complaint is dismissed as against Defendants SAIRA MEHMOOD, M.D. ("Dr. Mehmood"), JOSHUA O. McHUGH, M.D. ("Dr. McHugh"), CHERYL K. CHANG, M.D. ("Dr. Chang"), and ST. LUKES-ROOSEVELT HOSPITAL CENTER s/h/a MOUNT SINAI WEST, in its entirety; and it is further

ORDERED within twenty (20) days of the date of this Order, that the moving Defendants are to serve a copy of this Order on the Plaintiff via first-class certified mail to her/his last known address; and it is further

ORDERED that, within twenty (20) days of the date of this Order, the moving Defendants shall serve a copy of this Order upon the County Clerk and the Clerk of the General Clerk’s Office, which shall be effectuated 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; and it is further

ORDERED that the Clerk is directed to enter judgment in accordance with this Order.
This Constitutes the Decision and Order of the Court.

4/9/2026
DATE


KATHY J. KING, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE