Robinson v Thandi
2026 NY Slip Op 31692(U)
April 14, 2026
Supreme Court, Kings County
Docket Number: Index No. 504116/2020
Judge: Ellen M. Spodek

At an IAS Term, Part 63 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 14 day of April, 2026.

P R E S E N T:

HON. ELLEN M. SPODEK,
Justice.

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WILLIAM G. ROBINSON AS ADMINISTRATOR OF THE ESTATE OF SHARON D. ROBINSON, DECEASED, AND WILLIAM G. ROBINSON, INDIVIDUALLY,

Plaintiffs,

-against-

PARDEEP THANDI, M.D., OMAR HASHMI, M.D, VITALIY BORODUIN, M.D., ANDERS COHEN, D.O., AND THE BROOKLYN HOSPITAL CENTER,

Defendants.

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DECISION AND ORDER

Index No. 504116/2020

MS # 8 & 9

The following e-filed papers read herein: NYSCEF Doc. Nos.:

Notice of Motion, Affirmation, and Exhibits Annexed	124-167
Affirmation in Opposition and Exhibits Annexed	176-184
Reply Affirmation	169-174, 185-192

Defendants ANDERS COHEN, D.O., PARDEEP THANDI, M.D., OMAR HASHMI, M.D., VITALIY BORODUIN, M.D., and THE BROOKLYN HOSPITAL CENTER moved pursuant to CPLR 3212 for an Order granting summary judgment and dismissing them from this action. Plaintiff WILLIAM G. ROBINSON opposed in his individual capacity as well as his capacity as Administrator of the Estate of SHARON D. ROBINSON. Plaintiffs' opposition was not considered by this Court due to untimeliness.

Statement of Facts

Sharon Robinson arrived at The Brooklyn Hospital Center ("Brooklyn Hospital") at 2:32 p.m. on August 4, 2018, approximately 30 minutes after she believed she hit her head on a scaffolding post. She was seen in triage at approximately 2:49 p.m. by Resident Physician Dr. Omar Hashmi, who took Ms. Robsinson's history, reviewed her past medical records from Brooklyn Hospital, and performed a thorough physical examination. Dr. Hashmi was overseen by Emergency Room Attending Physician Dr. Pardeep Thandi. Ms. Robinson reported that she had a headache that she described as sharp, but not radiating, and rated it 4/10 in terms of pain and that it was not the worst of her life and not associated with a thunderclap sensation. During triage, she was speaking in full sentences, and was alert with mild distress. Examination revealed no apparent head injury, save tenderness to palpation to the right frontal area of the head. She confirmed that the area of tenderness was where she hit her head. On or about the time of her arrival to the Emergency Department, Ms. Robinson had one episode of vomiting which was appreciated by Dr. Hashmi and Dr. Thandi.

A neurological examination conducted by Dr. Hashmi revealed no specific deficits. She had a GCS Score of 15. She was slow to respond, but obeyed all commands, and her speech, gait, strength, and sensation were all normal. Her extracurricular movements were intact and her pupils were equal, round, responsive, reactive to light, and reactive to accommodation. Pertinent negatives included amnesia relating to the event, fall, loss of

consciousness, vertigo, visual changes, nausea, chest pain, palpitations, shortness of breath, numbness, tingling, focal weakness, and incontinences.

At approximately 3:32 p.m., an hour after Ms. Robinson arrived at Brooklyn Hospital, Dr. Hashmi ordered a CT of the head, as well as a workup for infection, a cardiac workup, and fluid replacement. Additionally, Ms. Robinson was given an EKG, her vitals were monitored, fluids were administered, she was provided with a bedside monitor, and blood was drawn for labs which had appreciated results. At approximately 3:56 p.m., her heartrate and respirations were normal and her blood pressure improved. At 4:53 p.m. she was alert and oriented x3. At that time, Nurse Oji completed a transportation note, in preparation for transfer to the Radiology Department for the CT of her head.

Within minutes of readiness for transfer, Ms. Robinson's status abruptly changed, resulting in the CT being cancelled and emergent life sustaining medical attention being provided. At approximately 5:00 p.m., she became bradycardic, her respirations increased, and she started vomiting bile-like secretions. Dr. Thandi was called bedside and found that Ms. Robinson was alert and able to respond to commands. Approximately 10 minutes later, he was called back as Ms. Robinson was foaming from the mouth, diaphoretic, and her heart rate decreased further. She was emergently intubated and placed on a ventilator.

Once stabilized, the CT of the head was reordered and performed at about 6:11 p.m., revealing a 4.5 x 6.6 cm parenchymal hemorrhage. Following the completion of the CT and the receipt of preliminary results, neurology and neurosurgery consults were requested and held. Despite not being at the hospital nor being on call on August 4, 2018, Dr. Anders

Cohen spoke with Dr. Hashmi via phone and indicated that Ms. Robinson likely had a vascular bleed, possibly an AVM, and recommended she be transferred to Mount Sinai. Dr. Vitaliy Boroduin, who at the time of Ms. Robinson's visit covered neurosurgery when Dr. Cohen was not on call, along with other specialty services, responded to the consult request. At the time of Dr. Boroduin's physical examination of Ms. Robinson, she remained intubated and sedated which prevented a complete neurological examination, however Dr. Boroduin found that she did not have involuntary muscle contraction, her Babinski reflex was negative, and she was unresponsive to deep palpation or pain stimulation.

Dr. Hashmi was in contact with the Mount Sinai Chief of Critical Care Unit and Mount Sinai neurologist Dr. Sivafankar. Brooklyn Hospital and Mount Sinai Hospital had an agreement for the transfer of patients that required services when the Brooklyn Hospital did not have an attending neurosurgeon on call. As such, Dr. Sivafankar reviewed the CT scan and requested that it be repeated. The second scan showed no significant change. Dr. Sivafankar denied the transfer as there would be no benefit from neurosurgical intervention. There were no brain stem reflexes and Ms. Robinson was not breathing over the ventilator. She was admitted to the ICU and further testing corroborated Dr. Sivafankar's brain death diagnosis. While in the ICU, she remained completely unresponsive, with no brain stem reflexes and her pupils were fixed and dilated. Ms. Robinson was ultimately pronounced dead on August 11, 2018.

Standard of Review

On a motion for summary judgment dismissing a medical malpractice cause of action, a defendant has the prima facie burden of establishing that there was no departure from good and accepted medical practice, or, if there was a departure, the departure was not the proximate cause of the alleged injuries. *Brinkley v. Nassau Health Care Corp.*, 120 A.D.3d 1287 (2d Dept. 2014); *Stukas v Streiter*, 83 AD3d 18, 24-26 (2d Dept. 2011). Once the defendant has made such a showing, the burden shifts to the plaintiff to submit evidentiary facts or materials to rebut the prima facie showing made by the defendant, so as to demonstrate the existence of a triable issue of fact. *Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 (1986); *Brinkley v. Nassau Health Care Corp.*, supra; *Fritz v. Burman*, 107 A.D.3d 936, 940 (2d Dept. 2013); *Lingfei Sun v. City of New York*, 99 AD3d 673, 675 (2d Dept. 2012); *Bezerman v. Bailine*, 95 AD3d 1153, 1154 (2d Dept. 2012); *Stukas v. Streiter*, at 24. A plaintiff succeeds in a medical malpractice action by showing that a defendant deviated from accepted standards of medical practice and that this deviation proximately caused plaintiff's injury. *Contreras v Adeyemi*, 102 AD3d 720, 721 (2d Dept. 2013); *Gillespie v New York Hosp. Queens*, 96 A.D.3d 901, 902 (2d Dept. 2012); *Semel v Guzman*, 84 AD3d 1054, 1055-56 (2d Dept. 2011). The plaintiff opposing a defendant physician's motion for summary judgment must only submit evidentiary facts or materials to rebut the defendant's prima facie showing. *Stukas*, at 24.

Dr. Cohen

Dr. Cohen submitted an Expert Affirmation in Support from Dr. Jeffrey Oppenheim, a board-certified neurologist who serves as an attending physician at several hospitals in New York. In his affirmation, Dr. Cohen asserts that the initial CT scan "revealed a catastrophic and ultimately fatal hemorrhage from which no intervention could have prevented [Ms. Robinson's] death." He explained that Ms. Robinson experienced a massive intraparenchymal bleed, meaning a hemorrhage within the substance of the brain, which led to a loss of blood flow to a substantial portion of her brain. This, considered in conjunction with the clinical findings of a slow heartrate, necessity of ventilatory support, and unresponsiveness (all of which were present prior to the first CT scan), as well as her subsequently documented absent brain stem reflexes, non-response to painful stimuli, and dilated pupils that were unresponsive to light all indicate that she had experienced brain death before Dr. Cohen had ever been called. Dr. Oppenheim opined that there was no medical or neurosurgical intervention that would have altered the inevitable progression to brain death, and this opinion made within a reasonable degree of medical certainty, was contemporaneously confirmed by Dr. Sivafankar. Dr. Oppenheim concluded that Dr. Cohen acted within accepted standards of medical neurosurgical practice, and that none of the alleged negligence was the proximate cause of any claimed injury as Ms. Robinson was inevitably progressing toward brain death before Dr. Cohen was called

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Brooklyn Hospital, Dr. Thandi, Dr. Hashmi, and Dr. Boroduin

Defendants Brooklyn Hospital, Dr. Thandi, Dr. Hashmi, and Dr. Boroduin (the Brooklyn Hospital Defendants) submitted two Expert Affirmations in support of their motion, one by Dr. Robert Meyer who is Board-Certified in Emergency Medicine and an Associate Professor of the same discipline, and another by Dr. Aleander Merkler, who is Board-Certified in Neurology and in the subspecialty of Neurocritical Care.

Dr. Meyer provided that the Brooklyn Hospital Defendants were at all times reasonable and conformed to accepted standards of medical care. More specifically, Dr. Meyer asserted that the Brooklyn Hospital Center timely, completely, and appropriately examined Ms. Robinson, ordered appropriate diagnostic studies, closely monitored and timely recognized and appreciated a change in her medical status, and took timely and appropriate action based on her dynamic medical needs. His position is that no act or omission by the Brooklyn Hospital Defendants proximately caused or contributed to the alleged injuries endured by Ms. Robinson.

First, Dr. Meyer explains that only with hindsight reasoning can it be said that a CT scan should have been performed earlier, and even if it had been, only with speculation can it be said that would have made a difference in her outcome. The timing of diagnostic studies in an Emergency Department setting relies on multiple factors ranging from the patient's condition to the needs of other patients waiting for similar testing. For a stable patient, a two-hour wait time is not uncommon and is not a departure from the standard of care owed to a patient. An Emergency Department is not required to make such diagnostic

testing available immediately to patients upon arrival, and in this case where the patient presented as stable, Dr. Meyer believes the test was ordered out of an abundance of caution. Ms. Robinson was not on anticoagulation, she did not lose consciousness, and she had a GCS of 15 with a nonfocal neurological examination. Based on these factors, the Brooklyn Hospital Defendants acted reasonably by continuing to work-up Ms. Robinson diagnostically and monitor for changes for the reasonable amount of time she waited for the test.

Dr. Meyer also asserted that there was no delay in evaluation Ms. Robinson. She was evaluated by a triage nurse and seen by Resident Physician Dr. Hashmi within 20 minutes of arrival to the Brooklyn Hospital. Ms. Robinson was medically stable, alert, responsive, and had no physical signs of trauma aside from tenderness to touch at the site where she indicated she hit her head. A complete neurological examination was performed and the only negative finding was that she was somewhat slow to respond. She was ambulatory after the incident and she denied a fall, amnesia, loss of consciousness, vertigo, visual changes, and focal weakness. Given these findings, the Brooklyn Hospital Defendants rightly considered intracranial hemorrhage as a differential diagnosis and rightly ordered a CT of the head.

The standard of care also requires that a complete diagnostic work-up be conducted and interim care be given. Given the symptoms experienced by Ms. Robinson, the Brooklyn Hospital Defendants met their standard of care by carrying out infectious disease and cardiac work-ups, and by administering IV fluids during her two hour wait for

transportation to the Radiology Department. Finally, the standard of care called for monitoring, which was shown to be carried out through records and testimony. Through his affirmation, Dr. Meyer listed a litany of specific instances that he asserts are proof that all appropriate standards of care were met and that the injuries endured by Ms. Robinson were not proximately caused by the acts or omissions of the Brooklyn Hospital Defendants.

Dr. Merkler's Expert Affirmation refuted the claim by Plaintiff that the use of tissue plasminogen activator was indicated and should have been employed in Ms. Robinson's care. He explained that while TPA could be beneficial for treating an ischemic stroke, it is contraindicated for a patient with an intracranial hemorrhage or hemorrhagic stroke. It is Dr. Merkler's belief that Ms. Robinson suffered a parenchymal hemorrhage caused by a hemorrhagic stroke, therefore administration of TPA was not merely unnecessary, it would have actually been contraindicated. Dr. Merkler similarly refuted Plaintiff's contention that the administration of 100mL sodium chloride 0.9% infusion over the course of an hour caused or contributed to Ms. Robinson's injuries. Ms. Robinson weighed 260lbs and the amount of fluids administered would not have impacted her blood pressure in a way that would have caused or contributed to a bleed.

Dr. Merkler agreed with Dr. Meyer to the extent that Ms. Robinson's presentation did not indicate a brain bleed. He explained that her condition did not necessitate an immediate CT scan and that a CT scan would have needed to be conducted prior to any surgical intervention. By the time the CT scan was initially supposed to be performed (interrupted by her rapidly worsening condition), no medical or neurological intervention

would have changed Ms. Robinson's outcome given the size and location of the bleed. Finally, Dr. Merkler agreed with the opinion of Dr. Oppenheim and the conclusion of the neurosurgeon at Mount Sinai Medical Center that the CT images revealed a catastrophic brain hemorrhage and that surgical intervention would not improve Ms. Robinson's outcome. Overall, Dr. Merkler affirmed that it is his belief within a reasonable degree of medical certainty that no actions nor omissions by the Brooklyn Hospital Defendants were the proximate cause of Ms. Robinson's alleged injuries or subsequent death.

Discussion

Following a full review and consideration of the papers submitted by defendants, this Court finds that all defendants have met their burden in proving a prima facie case establishing that they did not depart from medically accepted standards of care, and that no such departures proximately caused injury to the plaintiff.

Despite multiple adjournments agreed to by defendants, plaintiff did not timely submit opposition to these motions. The final stipulation fully executed by both parties was dated October 6, 2025 and filed on November 10, 2025, and it adjourned the present motions to November 11, 2025 with opposition to be filed on or before October 20, 2025. The Court administratively adjourned the motions to November 25, 2025. Plaintiff's opposition papers were not filed until November 21, 2025, one month after they were due to be filed by. As opposition was not filed in a timely manner, they are not being considered by this Court. As Defendants proved their prima facie case for summary judgment, motion sequences 8 and 9 are granted on default.

Conclusion

Accordingly, it is

ORDERED that in Motion Sequences 8 and 9, Defendants' motions for summary judgment are granted without opposition, and Plaintiff's claims are dismissed against them with prejudice; and it is further

ORDERED that the clerk is directed to enter judgment in favor of each defendant; and it is further

ORDERED that counsels for each defendant is directed to electronically serve a copy of this Decision, Order, and Judgment with notice of entry on Plaintiff's counsel and to electronically file an affidavit of said service with the Kings County Clerk.

This constitutes the Decision, Order, and Judgment of the Court.

ENTER,

Hon. Ellen M. Spodek

HON. ELLEN M. SPODEK

KINGS COUNTY CLERK
FILED
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