

Pierre v Grueso

2026 NY Slip Op 31790(U)

April 24, 2026

Supreme Court, Kings County

Docket Number: Index No. 500484/2019

Judge: Consuelo Mallafre Melendez

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At an IAS Term, MMESP-7 of the Supreme Court of the State of NY, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 24th day of April 2026.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
MARGARETTE PIERRE,

Plaintiff,

-against-

DAISY GRUESO, D.O., DANIEL MARTINEZ, M.D., JENNA NAKAGAWA, M.D., and NEW YORK CITY HEALTH AND HOSPITALS CORPORATION,

Defendants.

-----X
HON. CONSUELO MALLAFRE MELENDEZ, J.S.C.

DECISION & ORDER

Index No. 500484/2019
Mo. Seq. 4

Recitation, as required by CPLR §2219 [a], of the papers considered in the review:

NYSCEF #s: 133 – 147, 149 – 157, 158

Defendants Daisy Grueso, D.O. (“Dr. Grueso”), Daniel Martinez, M.D. (“Dr. Martinez”), Deborah Williams, M.D. (“Dr. Williams”), Jenna Nakagawa, M.D. (“Dr. Nakagawa”), and New York City Health and Hospitals Corporation (“HHC”) move (Seq. No. 4) for an Order, pursuant to CPLR 3212, granting summary judgment in their favor.

Plaintiff opposes the motion.

Margarette Pierre (“Plaintiff”) commenced the action on January 8, 2019, seeking damages allegedly arising from medical care rendered at Kings County Hospital Center. Plaintiff alleges that Defendants failed to appreciate signs, symptoms and complaints of arrested cervical dilation during childbirth, that they delayed treatment, negligently performed a c-section on

January 6, 2018, failed to take preventative measures to prevent mass blood loss, failed to manage the plaintiff's uterine atony, negligently administered uterotonic medication, failed to obtain informed consent, and failed to properly train medical personnel who rendered services to the plaintiff. Plaintiff further claims that these departures caused bleeding and atony of the uterus resulting in a hysterectomy and consequently her inability to have another child.

At 8:10 p.m. on January 4, 2018, the 26-year-old Plaintiff presented to Kings County Hospital Center and was admitted to labor and delivery. Due to a lack of adequate contractions and dilation, Plaintiff was administered Cytotec and Pitocin. She was later administered Hemabate and Methergine. After approximately 44 hours of induction, a cesarean section was performed on January 6, 2018, and the infant was delivered at 6:31 p.m. Plaintiff began hemorrhaging, and a Massive Transfusion Protocol was activated at 6:50 p.m. A laceration to Plaintiff's uterine wall was discovered sometime thereafter and was repaired. Finally, a hysterectomy was performed, which resulted in Plaintiff's permanent infertility.

Plaintiff alleges that Defendants deviated from the standard of care in their management of her labor, delivery, and post-delivery surgery, proximately causing her injuries, including the loss of her uterus and permanent infertility.

In evaluating a summary judgment motion in a medical malpractice action, the court considers the "essential elements" of medical malpractice: "(1) a deviation or departure from accepted medical practice, and (2) evidence that such departure was a proximate cause of injury" (*Miller-Albert v EmblemHealth*, 231 AD3d 1147, 1148 [2d Dept 2024] [internal quotation marks and citations omitted]). "Thus, a defendant moving for summary judgment must make a prima facie showing either that there was no departure from accepted medical practice, or that any departure was not a proximate cause of the patient's injuries. To meet that burden, a

defendant must submit in admissible form factual proof, generally consisting of affidavits, deposition testimony and medical records, to rebut the claim of malpractice” (*Id.*). “If the defendant makes such a showing, the burden shifts to the plaintiff to raise a triable issue of fact as to those elements on which the defendant met its prima facie burden of proof” (*Delia v Wieder*, 236 AD3d 857, 858 [2d Dept 2025]). “Generally, summary judgment is not appropriate in a medical malpractice action where the parties adduce conflicting medical expert opinions” (*Garcia v Hollander*, 241 AD3d 651, 653 [2d Dept 2025] [internal quotation marks and citations omitted].) However, “expert opinions that are conclusory, speculative, or unsupported by the record are insufficient to raise triable issues of fact” (*Barnaman v Bishop Hucles Episcopal Nursing Home*, 213 AD3d 896, 898-899 [2d Dept 2023]).

In support of their motion (Seq. No. 4), Defendants submit an expert affirmation from Gary Mucciolo, M.D. (“Dr. Mucciolo”), a licensed physician board certified in OB/GYN.

Dr. Mucciolo opines that Defendants did not depart from the standard of care before, during, or after Plaintiff gave birth. He states that each symptom, complaint, and sign of Plaintiff’s progress, or lack thereof, was meticulously monitored and that all diagnostic testing ordered was appropriate, including continuous fetal monitoring and ultrasound imaging, and that Defendants did not fail to manage Plaintiff’s condition.

With respect to the administration of medications, Dr. Mucciolo opines that the induction protocol was appropriate and within the standard of care. He notes that 25 mcg of Cytotec was administered at 10:00 p.m., 12:57 a.m., 5:11 a.m., and 9:45 a.m. to soften the cervix and control hemorrhaging. He adds that Pitocin was initiated at 5:32 p.m., when Plaintiff was 1-2 centimeters dilated and was run for approximately 25 hours, eventually reaching maximum dosage. Dr. Mucciolo also states that Hemabate was administered at 6:40 p.m. and 7:07 p.m., and 0.2 mg of

Methergine was given at 6:45 p.m. and 7:10 p.m. to improve uterine muscle tone and the strength and timing of contractions. The expert opines that an induction of approximately 44 hours was within the standard of care where mother and infant remained stable, and that proceeding to cesarean section was a conservative and appropriate plan.

With respect to the cesarean section, Dr. Mucciolo opines that the procedure was performed in accordance with the standard of care, that anatomical landmarks were appropriately observed, and that the uterus was exteriorized to visualize the source of bleeding. The expert opines that Plaintiff's posterior wall laceration was immediately identified and repaired, and that Defendants made multiple attempts to control the bleeding before a hysterectomy was deemed medically necessary due to hemodynamic instability. Dr. Mucciolo further opines that there was no overstitching extending into Plaintiff's bladder or serosal injury, and that appropriate transfusion protocol consultations were obtained.

On proximate causation, Dr. Mucciolo states that uterine atony, rather than any act or omission by Defendants, caused Plaintiff's excessive bleeding and that the hysterectomy was a life-saving, medically necessary procedure. He opines that nothing Defendants could have done would have prevented the uterine atony or the hemorrhage that followed.

Defendants have established prima facie entitlement to summary judgment on the issues of standard of care and proximate causation by setting forth expert opinions that Defendants complied with the applicable standard of care and that different treatment would not have prevented Plaintiff's hysterectomy. The burden therefore shifts to the Plaintiff to raise a triable issue of fact.

In opposition, Plaintiff submits an expert affirmation from John P. Brennan, M.D. (“Dr. Brennan”), a licensed physician board certified in OB/GYN.

Plaintiff’s expert opines that Defendants deviated from the standard of care in their management of Plaintiff’s labor and delivery, and that those deviations were the proximate cause of Plaintiff’s injuries.

Regarding Plaintiff’s medication, Dr. Brennan opines that the standard of care required physicians to administer uterotonic agents, specifically Pitocin, to achieve adequate uterine activity without inducing myometrial fatigue. According to Dr. Brennan, when the uterus is subjected to hyperstimulation, the muscle becomes physiologically exhausted, its oxytocin receptors desensitize, and it becomes incapable of the sustained contractions necessary to achieve hemostasis after delivery. Dr. Brennan opines that a total of 20.1 IU of oxytocin was administered intravenously, a dose with a significant, monotonic relationship to the risk of severe postpartum hemorrhage, with that risk increasing sharply at doses as low as 5 IU. In the expert’s opinion, Defendants quadrupled the dose at which the risk profile escalates sharply. He further opines that at 10:45 a.m. on January 6, Defendants documented that 20 mU per minute was insufficient yet failed to recognize this as a sign of uterine exhaustion. Instead, according to Dr. Brennan, the infusion was paused and restarted at 10 mU per minute at 12:00 p.m. before being escalated again to 30 mU per minute. Dr. Brennan states that this pattern denied the myometrium any meaningful rest and instead pushed it beyond its physiological capacity, rendering it unresponsive to uterotonics after delivery. Combined with three doses of Cytotec, which Dr. Brennan notes carry an FDA warning regarding the risk of uterine rupture and severe postpartum hemorrhage, Plaintiff’s expert opines that uterine overstimulation was a predictable consequence

of Defendants' induction management. Dr. Brennan opines that these failures to properly administer medication resulted in Plaintiff's hemorrhage.

Dr. Brennan also disputes Dr. Mucciolo's characterization of the Hemabate and Methergine administration. Contrary to Defendants' expert's assertion that these medications were appropriate in preparing Plaintiff for vaginal labor, Dr. Brennan opines that both agents are strictly postpartum vasoconstrictors for the treatment of active hemorrhage and are contraindicated during active labor due to the risk of tetanic contractions, uterine rupture, and fetal distress.

With respect to the hemorrhage, Dr. Brennan disputes the defense of inevitability, opining that Defendants failed to employ the standard, less invasive Bakri Balloon and B-Lynch sutures before proceeding to a hysterectomy. Further, Dr. Brennan opines that the failure to utilize these options rendered the hysterectomy a preventable outcome.

Regarding the posterior wall laceration, Dr. Brennan opines that while the infant was delivered at 6:31 p.m. and the Massive Transfusion Protocol was activated at 6:50 p.m., due to "brisk" bleeding, the posterior wall laceration was not visualized and repaired until 1:21 a.m. Dr. Brennan opines that the delay of 6 hours and 31 minutes was a contributing proximate cause of the hemorrhage and the ensuing medical necessity for hysterectomy.

Finally, Dr. Brennan opines that improper surgical technique resulted in a stitch being placed on Plaintiff's bladder, causing hematuria.

The central dispute concerns whether Defendants' management of Plaintiff's induction, specifically the administration of Pitocin and Cytotec, caused the uterine atony that precipitated the hemorrhage and necessitated the hysterectomy. The parties' experts opinions are detailed,

well developed and based on the medical records and are in direct conflict on this issue (*McHale v Sweet*, 217 AD3d 666, 668 [2023]). Defendants' expert opines that the total dosage and duration of Pitocin were within the standard of care, that the induction was appropriate given the clinical circumstances, and that the uterine atony was an unforeseeable and unpreventable complication unrelated to induction protocol. In contrast, Plaintiff's expert opines that the administration of 20.1 IU of oxytocin combined with multiple doses of Cytotec was a departure from the standard of care that cause foreseeable myometrial exhaustion and uterine atony. He further opines that Defendants' decision to pause and restart Pitocin without permitting adequate myometrial rest and to escalate the dosage upon restarting it exacerbated this departure. He opines that these alleged departures caused Plaintiff's injury and were a cause of her having a hysterectomy and her resultant infertility.

The experts also contest the administration of Hemabate and Methergine during active labor. Dr. Mucciolo characterizes this as appropriate preparation for vaginal labor, but Dr. Brennan states that both are contraindicated during active labor and are used strictly postpartum for the management of hemorrhage. These conflicting opinions regarding the administration of medication during Plaintiff's labor raise a triable issue of fact.

Another triable issue of fact is raised regarding Plaintiff's posterior wall laceration. Dr. Mucciolo opines that the laceration was identified and immediately repaired following exteriorization of the uterus after Plaintiff's c-section, but Dr. Brennan opines that the laceration was not identified for about 6 hours and 31 minutes, including after Plaintiff began receiving transfusions. The hospital records are equivocal. Both parties' experts opine when the laceration was discovered and repaired, but the hospital records do not establish an exact time. The conflicting opinions raise questions of whether the laceration was immediately identified,

whether a significant delay occurred, and whether any delay constituted a departure from the standard of care that proximately caused Plaintiff's injuries are triable issues of fact.

Further, Plaintiff's expert opines that improper surgical technique resulted in a stitch being placed on the bladder, causing bleeding. Defendants' expert opines that there was no overstitching extending into the bladder or serosal injury. Similarly, these conflicting opinions present a triable issue of fact.

Lastly, Dr. Brennan raises a question as to whether Defendants were required to attempt the Bakri Balloon or B-Lynch sutures prior to performing a hysterectomy. On the other hand, Dr. Mucciolo states that nothing more could have been done. Dr. Brennan disputes this, opining that the failure to attempt these options before proceeding to a hysterectomy was a departure from the standard of care and caused her injuries.

In sum, Plaintiff's expert opinion raises issues of fact regarding the alleged departures from the standard of care and proximate cause.

Accordingly, it is hereby:

ORDERED that Defendants Daisy Grueso, D.O., Daniel Martinez, M.D., Jenna Nakagawa, M.D., and New York City Health and Hospitals Corporation's motion (Seq. No. 4) seeking summary judgment is **DENIED**.

This constitutes the decision and order of the Court.

ENTER.



Hon. Consuelo Mallafre Melendez
J.S.C.