

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Small v. Riding High Dude Ranch, Inc.

Small, 2026 NY Slip Op 02489 (Appellate Division of the Supreme Court of the State of New York Third Department 2026) · No. CV-25-0291 · Decided April 23, 2026

SUMMARY

The Appellate Division, Third Department affirmed the denial of defendant's motion for summary judgment in a personal injury action arising from horseback riding. The court held that factual questions remained as to whether a wrangler's allegedly excessive force in assisting plaintiff to mount a horse unreasonably increased the inherent risks of horseback riding. The court also concluded that plaintiff presented sufficient circumstantial evidence of proximate cause to avoid summary judgment.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Appellate Division of the Supreme Court of the State of New York, Third Department                                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Corcoran, J.; Garry, P.J.; Clark, J.; Pritzker, J.; McShan, J.                                                                                                                                                                                                                                                                                        |
| JURISDICTION          | New York Supreme Court, Appellate Division, Third Department                                                                                                                                                                                                                                                                                          |
| DECIDED               | April 23, 2026                                                                                                                                                                                                                                                                                                                                        |
| DOCKET                | CV-25-0291                                                                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Defendant appealed from an order denying its motion for summary judgment dismissing the complaint.                                                                                                                                                                                                                                                    |
| STANDARD OF REVIEW    | On summary judgment, the movant must make a prima facie showing of entitlement to judgment as a matter of law by demonstrating the absence of material issues of fact. The evidence must be viewed in the light most favorable to the nonmoving party, with every reasonable inference accorded to that party and without credibility determinations. |
| PRECEDENTIAL VALUE    | Published appellate opinion                                                                                                                                                                                                                                                                                                                           |
| PARTIES               | Riding High Dude Ranch, Inc. v. Kerry Small                                                                                                                                                                                                                                                                                                           |

TOPICS

- negligence
- assumption of risk
- personal injury
- summary judgment
- appellate procedure

## PRACTICE AREAS

torts

negligence

personal injury

appellate procedure

civil procedure

## QUESTIONS PRESENTED

1. Whether primary assumption of risk barred Small's claim as a matter of law.
2. Whether evidence that the wrangler used excessive force or an unapproved mounting technique created a triable issue as to whether defendant unreasonably enhanced the inherent risks of horseback riding.
3. Whether Small's proof of causation was impermissibly speculative such that defendant was entitled to summary judgment.

## HOLDINGS

1. Primary assumption of risk does not bar summary judgment against a horseback-riding plaintiff where the alleged injury resulted from the manner in which the defendant's employee assisted with mounting and the evidence raises a question whether that conduct unreasonably enhanced the activity's inherent risks.
2. A plaintiff may establish proximate cause through circumstantial evidence when the evidence makes alternative causes sufficiently remote to permit a jury to draw a logical inference, and need not exclude every other possible cause of the injury.

## KEY QUOTATIONS

*"Under the doctrine of primary assumption of risk, a voluntary participant in a sporting or recreational activity consents to those commonly appreciated risks that are inherent in and arise out of the nature of the activity and flow from such participation, thereby limiting the scope of a defendant's duty of care" (\*1)*

*"However, participants are not deemed to have assumed risks that are concealed or unreasonably enhanced by a defendant's conduct" (\*2)*

*"A plaintiff "can demonstrate proximate cause solely through circumstantial evidence, so long as that evidence renders other causes sufficiently remote such that the jury can base its verdict on logical inferences drawn from the evidence, not merely on speculation"" (\*3)*

## FACTUAL BACKGROUND

Small, an experienced horseback rider, participated in advanced riding activities at defendant's dude ranch in June 2021. Before a trail ride on a larger horse, she requested a mounting block, but a wrangler instead assisted her from the ground. She alleged that the wrangler applied unexpected and excessive force while pushing her right leg over the horse, causing a pop and injury to her knee; the wrangler testified that the technique described was inconsistent with defendant's training and procedures. Small later developed knee pain and was diagnosed with an ACL injury and torn meniscus.

## PROCEDURAL HISTORY

Small sued Riding High Dude Ranch, Inc. for injuries allegedly sustained while mounting a horse during horseback-riding activities at defendant's ranch. After joinder of issue and discovery, defendant moved for summary judgment based on primary assumption of risk and lack of proof of proximate cause. The Supreme Court, Warren County, denied the motion, and the Appellate Division affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Alvarez v. Prospect Hosp., 68 NY2d 320, 324 (1986)
- Vega v. Restani Constr. Corp., 18 NY3d 499, 503 (2012)
- Lubrano-Birken v. Ellis Hosp., 229 AD3d 873, 876 (3d Dept 2024)
- Ali-Hasan v. St. Peter's Health Partners Med. Assoc., P.C., 226 AD3d 1199, 1200 (3d Dept 2024), lv denied 42 NY3d 906 (2024)
- Stanhope v. Burke, 220 AD3d 1122, 1124-1125 (3d Dept 2023)
- Sara W. v. Rocking Horse Ranch Corp., 169 AD3d 1342, 1343-1344 (3d Dept 2019)
- Katleski v. Cazenovia Golf Club, Inc., 225 AD3d 1030, 1038 (3d Dept 2024), affd 44 NY3d 212 (2025)
- Dalton v. Adirondack Saddle Tours, Inc., 40 AD3d 1169, 1171 (3d Dept 2007)
- Grady v. Chenango Val. Cent. Sch. Dist., 40 NY3d 89, 95 (2023)
- Fritz v. Walden Playboys M.C. Inc., 217 AD3d 1293, 1294 (3d Dept 2023)
- Valencia v. Diamond F. Livestock, Inc., 110 AD3d 1334, 1335-1336 (3d Dept 2013)
- Jones v. Smoke Tree Farm, 161 AD3d 1590, 1591 (4th Dept 2018)
- Georgiades v. Nassau Equestrian Ctr. at Old Mill, Inc., 134 AD3d 887, 888-889 (2d Dept 2015)
- Corica v. Rocking Horse Ranch, Inc., 84 AD3d 1566, 1567-1568 (3d Dept 2011)
- Weichsel v. State of New York, 231 AD3d 1459, 1463-1464 (3d Dept 2024)
- Mulligan v. R & D Props. of N.Y. Inc., 162 AD3d 1301, 1301-1302 (3d Dept 2018)
- Acton v. 1906 Rest. Corp., 147 AD3d 1277, 1278 (3d Dept 2017)
- Scurry v. New York City Hous. Auth., 39 NY3d 443, 453 (2023)