

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Wahrheit v. Ciliotta

Wahrheit, 2026 NY Slip Op 03842 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2024-09613 · Decided June 17, 2026

SUMMARY

The Appellate Division, Second Department affirmed an order denying the plaintiff's motion for summary judgment on whether she sustained a serious injury under Insurance Law § 5102(d) in a motor vehicle accident case. The court held that the plaintiff failed to establish a prima facie showing of serious injury under the applicable limitation-of-use and significant-disfigurement categories.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Helen Voutsinas, J.; Lourdes M. Ventura, J.; Donna-Marie E. Golia, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	June 17, 2026
DOCKET	2024-09613
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from an order denying her motion for summary judgment on whether she sustained a serious injury under Insurance Law § 5102(d).
STANDARD OF REVIEW	Summary judgment requires the movant to establish a prima facie entitlement to judgment as a matter of law. If the movant fails to meet that burden, the motion must be denied without regard to the sufficiency of the opposition papers.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Denise Wahrheit v. Thomas Ciliotta

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the plaintiff established prima facie that she sustained a serious injury to the cervical region of her spine under the permanent consequential limitation-of-use or significant limitation-of-use categories of Insurance Law § 5102(d).
2. Whether the plaintiff established prima facie that she sustained a serious injury under the significant-disfigurement category of Insurance Law § 5102(d).
3. Whether the Supreme Court properly denied the plaintiff's summary-judgment motion without evaluating the sufficiency of the defendant's opposition papers.

HOLDINGS

1. The plaintiff failed to meet her prima facie burden of showing that she sustained a serious injury within the meaning of Insurance Law § 5102(d) as a result of the accident.
2. Because the plaintiff failed to satisfy her prima facie burden, the Supreme Court properly denied the motion without regard to the sufficiency of the defendant's opposition papers.

KEY QUOTATIONS

“Since the plaintiff failed to satisfy her prima facie burden, the Supreme Court properly denied her motion without regard to the sufficiency of the defendant's opposition papers” ([*1])

FACTUAL BACKGROUND

The plaintiff allegedly sustained personal injuries in a motor vehicle accident. She sought summary judgment establishing that she sustained a serious injury within the meaning of Insurance Law § 5102(d), including injuries involving the cervical region of her spine and significant disfigurement. The court concluded that her submissions did not establish the statutory serious-injury threshold as a matter of law.

PROCEDURAL HISTORY

Denise Wahrheit commenced a personal-injury action arising from a motor vehicle accident and moved for summary judgment on the serious-injury threshold issue. The Supreme Court, Suffolk County, denied the motion in an order dated June 18, 2024. The Appellate Division affirmed the order insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- *Ceri-Felix v. Remy*, 217 A.D.3d 917, 918
- *Spann v. City of New York*, 145 A.D.3d 932, 934
- *Mnatcakanova v. Elliot*, 174 A.D.3d 798, 799
- *Winegrad v. New York Univ. Med. Ctr.*, 64 N.Y.2d 851, 853

OPINION

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PER CURIAM.

Wahrheit v Ciliotta - 2026 NY Slip Op 03842 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Wahrheit v Ciliotta 2026 NY Slip Op 03842 June 17, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. Denise Wahrheit, appellant, v Thomas Ciliotta, respondent. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 17, 2026 2024-09613, (Index No. 610782/22) Betsy Barros, J.P. Helen Voutsinas Lourdes M. Ventura Donna-Marie E. Golia, JJ. Walker & Mackenzie, P.C. (Pollack Pollack Isaac & DeCicco, LLP, New York, NY [Brian J. Isaac], of counsel), for appellant. Miranda Slone Sklarin Verveniots, LLP, Mineola, NY (Laura Alto of counsel), for respondent. [*1] DECISION & ORDER In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Linda J. Kevins, J.), dated June 18, 2024. The order, insofar as appealed from, denied the plaintiff's motion for summary judgment on the issue of whether she sustained a serious injury within the meaning of Insurance Law § 5102(d) as a result of the subject accident. ORDERED that the order is affirmed insofar as appealed from, with costs. The plaintiff commenced this action to recover damages for personal injuries she allegedly sustained in a motor vehicle accident. The plaintiff moved for summary judgment on the issue of whether she sustained a serious injury within the meaning of Insurance Law § 5102(d) as a result of the accident. In an order dated June 18, 2024, the Supreme Court, inter alia, denied the motion. The plaintiff appeals. The plaintiff failed to meet her prima facie burden of showing that she sustained a serious injury within the meaning of Insurance Law § 5102(d) as a result of the accident (see *Ceri-Felix v Remy* , 217 AD3d 917, 918). The plaintiff failed to establish, prima facie, that she sustained a serious injury to the cervical region of her spine under either the permanent consequential limitation of use or significant limitation of use categories of Insurance Law § 5102(d) (see *Spann v City of New York* , 145 AD3d 932, 934), or that she sustained a serious injury under the significant disfigurement category of Insurance Law § 5102(d) (see *Mnatcakanova v Elliot* , 174 AD3d 798 , 799). Since the plaintiff failed to satisfy her prima facie burden, the Supreme Court properly denied her motion without regard to the sufficiency of the defendant's opposition papers (see

Winegrad v New York Univ. Med. Ctr. , 64 NY2d 851, 853). BARROS, J.P., VOUTSINAS, VENTURA and GOLIA, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

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