

**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.

OPINION

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 Verveniotis, 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.