

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

Bray v. Popat

2026 NY Slip Op 02536 · No. 190 CA 25-00220 · Decided April 24, 2026

SUMMARY

The Appellate Division, Fourth Department, unanimously affirmed an order denying summary judgment to defendants in a medical malpractice action. The court held that plaintiffs raised triable issues of fact concerning the standard of care and rejected the challenge to the qualifications of plaintiffs' anonymous medical expert.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Curran, J.P.; Montour, J.; Smith, J.; Ogden, J.; DelConte, J.
JURISDICTION	New York Supreme Court, Appellate Division, Fourth Department
DECIDED	April 24, 2026
DOCKET	190 CA 25-00220
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order denying their motion for summary judgment dismissing the amended/supplemental complaint in a medical malpractice action.
STANDARD OF REVIEW	Summary judgment is proper only when the moving party establishes entitlement to judgment as a matter of law; once the movants meet their initial burden, the opposing party must raise a triable issue of fact.
PRECEDENTIAL VALUE	published
PARTIES	Saurin Popat, M.D., Delaware Medical Group, P.C. v. Meg Bray, Brian Bray

TOPICS

- medical malpractice
- standard of care
- summary judgment
- professional negligence
- appellate procedure

PRACTICE AREAS

medical malpractice

health law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether defendants established entitlement to summary judgment by showing that they did not deviate from the accepted standard of care.
2. Whether plaintiffs' expert was qualified to offer an opinion concerning the medical treatment at issue.
3. Whether plaintiffs' expert opinion raised a triable issue of fact sufficient to defeat summary judgment.

HOLDINGS

1. Although defendants met their initial burden by establishing that they did not deviate from the accepted standard of care, plaintiffs raised a triable issue of fact on that element, precluding summary judgment.
2. Plaintiffs' expert was sufficiently qualified to render an opinion because the expert was a licensed physician, board certified by the American Board of Surgery, and clinically focused on endocrine surgery, and those specialized skills were sufficiently related to the medical subject matter.

KEY QUOTATIONS

“although they met their initial burden on their motion by establishing that they did not deviate from the accepted standard of care, plaintiffs raised triable issues of fact with respect to that element sufficient to defeat the motion” (2026 NY Slip Op 02536)

“Plaintiffs' expert opined in their affirmation, inter alia, that Popat's assessment, diagnosis and treatment of plaintiff Meg Bray's condition fell below the accepted standard of care, thus presenting a "classic battle of the experts" that precludes summary judgment” (2026 NY Slip Op 02536)

FACTUAL BACKGROUND

The action arose from medical treatment provided by Saurin Popat, M.D., to plaintiff Meg Bray. Defendants submitted proof that Popat did not deviate from the accepted standard of care. Plaintiffs opposed the motion with an affirmation from an anonymous physician who was licensed, board certified by the American Board of Surgery, and clinically focused on endocrine surgery, and who opined that Popat's assessment, diagnosis, and treatment fell below the accepted standard of care.

PROCEDURAL HISTORY

The Supreme Court, Erie County, denied the summary-judgment motion of Saurin Popat, M.D., and Delaware Medical Group, P.C. The defendants appealed, and the Appellate Division, Fourth Department, unanimously affirmed the order without costs.

DISPOSITION

affirmed

CASES CITED

- Thompson v. Hall, 191 A.D.3d 1265, 1267 (4th Dep't 2021)
- Nowelle B. v. Hamilton Med., Inc., 177 A.D.3d 1256, 1258 (4th Dep't 2019)
- Hilbrecht v. Greco, 189 A.D.3d 2073, 2074 (4th Dep't 2020)

OPINION

Bray v. Popat 2026 NY Slip Op 02536

PER CURIAM.

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Appellate Division, Fourth Department
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MEG BRAY AND BRIAN BRAY, PLAINTIFFS-RESPONDENTS,

SAURIN POPAT, M.D., DELAWARE MEDICAL GROUP, P.C., DEFENDANTS-APPELLANTS, ET AL., DEFENDANTS.

Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
Decided on April 24, 2026
190 CA 25-00220
Present: Curran, J.P., Montour, Smith, Ogden, And Delconte, JJ.

ROACH, BROWN, MCCARTHY & GRUBER, P.C., BUFFALO (J. MARK GRUBER OF COUNSEL), FOR DEFENDANTS-APPELLANTS.
LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (JOHN A. COLLINS OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Erie County (Emilio Colaiacovo, J.), entered January 24, 2025, in a medical malpractice action. The order denied the motion of defendants Saurin Popat, M.D., and Delaware Medical Group, P.C., for summary judgment.

[*1] It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: In this medical malpractice action, Saurin Popat, M.D. and Delaware Medical Group, P.C. (defendants) appeal from an order that denied their motion for summary judgment dismissing the "Amended/Supplemental" complaint against them. We affirm.

Contrary to defendants' contention, we conclude that, although they met their initial burden on their motion by establishing that they did not deviate from the accepted standard of care, plaintiffs raised triable issues of fact with respect to that element sufficient to defeat the motion (*see generally* Thompson v Hall, 191 AD3d 1265,

1267 [4th Dept 2021]). With respect to plaintiffs' opposition papers, we initially reject defendants' contention that plaintiffs' expert was unqualified to render an opinion regarding the issues in this case. Plaintiffs' anonymous expert averred in their expert affirmation that they are a physician, duly licensed to practice medicine, and that they are board certified by the American Board of Surgery with a clinical focus in endocrine surgery. The affirmation established that "[t]he specialized skills of [the] expert as demonstrated through [their] board certifications, taken together with the nature of the medical subject matter of th[e] action, are sufficient to support the inference that [their] opinion regarding [the] treatment [at issue] was reliable" (*Nowelle B. v Hamilton Med. Inc.*, 177 AD3d 1256, 1258 [4th Dept 2019] [internal quotation marks omitted]; *see Hilbrecht v Greco*, 189 AD3d 2073, 2074 [4th Dept 2020]). Plaintiffs' expert opined in their affirmation, inter alia, that Popat's assessment, diagnosis and treatment of plaintiff Meg Bray's condition fell below the accepted standard of care, thus presenting a "classic battle of the experts" that precludes summary judgment (*Hilbrecht*, 189 AD3d at 2074 [internal quotation marks omitted]).

Entered: April 24, 2026

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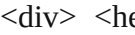
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PER CURIAM.

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Appellate Division, Fourth Department

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MEG BRAY AND BRIAN BRAY, PLAINTIFFS-RESPONDENTS,

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