

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

Estate of Middleton v. CLR Troy LLC

2026 NY Slip Op 01826 · No. CV-24-1381 · Decided March 26, 2026

SUMMARY

The Appellate Division, Third Department, held that CLR Troy LLC established immunity under New York's Emergency or Disaster Treatment Protection Act for claims arising from its provision of care during the COVID-19 pandemic. The court also held that the plaintiff's claims for gross negligence and pre-pandemic negligence were inadequately pleaded. It reversed the order denying dismissal and dismissed the complaint against CLR Troy LLC.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Powers, J.; Clark, J.P.; Pritzker, J.; McShan, J.; Corcoran, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	March 26, 2026
DOCKET	CV-24-1381
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendant appealed from an order of Supreme Court, Rensselaer County, denying its CPLR 3211 motion to dismiss the complaint. The Appellate Division reversed and granted the motion.
STANDARD OF REVIEW	On a CPLR 3211 motion, the court accepts the complaint's factual allegations as true, gives the nonmoving party the benefit of every favorable inference, and determines whether the alleged facts fit within any cognizable legal theory. When the movant submits evidence extrinsic to the complaint in support of a CPLR 3211(a)(7) motion, the court instead considers whether the plaintiff actually has a cause of action, and the plaintiff must submit evidence demonstrating the existence of a cause of action.
PRECEDENTIAL VALUE	published
PARTIES	CLR Troy LLC, doing business as Troy Center for Rehabilitation and Nursing v. Estate of Willie Middleton, by the Proposed Administrator,

TOPICS

nursing home liability

health law

medical malpractice

motions to dismiss

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether CLR Troy LLC established entitlement to immunity under the Emergency or Disaster Treatment Protection Act for claims arising from its provision of care during the COVID-19 pandemic.
2. Whether the complaint adequately pleaded gross negligence and negligence occurring before the COVID-19 pandemic, the claims that would otherwise survive EDTPA immunity.

HOLDINGS

1. CLR Troy LLC's documentary proof conclusively established all three requirements for immunity under Public Health Law former § 3082(1): it provided health care services pursuant to applicable COVID-19 rules or law, the care was affected by its pandemic-related decisions and activities in support of state directives, and it acted in good faith. The defendant was therefore entitled to EDTPA immunity for claims arising during the COVID-19 pandemic.
2. The gross-negligence and pre-COVID negligence claims were not adequately pleaded because they consisted of bare legal conclusions without factual specificity. Those claims therefore could not survive the motion to dismiss.

KEY QUOTATIONS

*“When presented with a motion to dismiss under CPLR 3211, this Court must accept the facts alleged in the complaint as true and accord the nonmoving party the benefit of every possible favorable inference and determine only whether the facts as alleged fit within any cognizable legal theory” (*1)*

*“the plaintiff no longer can rely only on the unsupported factual allegations of the pleading, but must submit evidence demonstrating the existence of a cause of action” (*2)*

*“Neither of plaintiff's remaining claims for gross negligence and pre-COVID negligence — the only claims which would otherwise survive EDTPA immunity — are supported by more than “bare legal conclusions with no factual specificity”” (*4)*

FACTUAL BACKGROUND

Willie Middleton resided at Troy Center for Rehabilitation and Nursing, a nursing home owned and operated by CLR Troy LLC, beginning in 2004. During the COVID-19 pandemic, the facility implemented policies concerning isolation, personal protective equipment, visitation, testing, and other governmental directives. Middleton developed respiratory symptoms and declining oxygen saturation in July 2020, was transferred to

Albany Medical Center on July 24, 2020, and died on August 9, 2020 from acute hypoxic respiratory failure due to COVID-19.

PROCEDURAL HISTORY

The estate commenced a nursing-home malpractice and wrongful-death action against CLR Troy LLC and other defendants, alleging statutory violations, negligence before and during the COVID-19 pandemic, negligence per se, and gross negligence. CLR Troy moved to dismiss under CPLR 3211, relying in part on immunity under the Emergency or Disaster Treatment Protection Act. Supreme Court denied the motion as to CLR Troy, concluding that the defendant had not established EDTPA immunity. The Appellate Division reversed, granted the motion, and dismissed the complaint against CLR Troy.

DISPOSITION

reversed

CASES CITED

- *Colt v. Nathan Littauer Hosp.*, 236 AD3d 1216, 1217 [3d Dept 2025], lv denied 44 NY3d 903 [2025]
- *Whitehead v. Pine Haven Operating LLC*, 222 AD3d 104, 107, 109-111 [3d Dept 2023]
- *Costiera v. MMR Care Corp.*, 244 AD3d 1180, 1181-1182 [2d Dept 2025]
- *Byington v. North Sea Assoc., LLC*, 244 AD3d 1177, 1178-1179 [2d Dept 2025]
- *Hyman v. Richmond Univ. Med. Ctr.*, 239 AD3d 617, 618-619 [2d Dept 2025]
- *Estate of Pierro v. Carmel Richmond Healthcare & Rehabilitation Ctr.*, 241 AD3d 645, 647 [2d Dept 2025]
- *Madourie v. Montefiore Med. Ctr.*, 2026 NY Slip Op 00617, *1 [1st Dept 2026]
- *Silva-Rios v. New York Presbyt. Columbia Med. Ctr.*, 2026 NY Slip Op 00481, *1 [1st Dept 2026]
- *Damiani v. WSNCH N., Inc.*, 244 AD3d 1059, 1062-1063 [2d Dept 2025]
- *Godfrey v. Spano*, 13 NY3d 358, 373 [2009]
- *Damon v. Clove Lakes Healthcare & Rehabilitation Ctr., Inc.*, 228 AD3d 618, 619 [2d Dept 2024]
- *Hasan v. Terrace Acquisitions II, LLC*, 224 AD3d 475, 476-478 [1st Dept 2024]
- *Ruth v. Elderwood at Amherst*, 209 AD3d 1281, 1291 [4th Dept 2022]