

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

Rohauer v. Guilderland Cent. Sch. Dist.

Rohauer, 2026 NY Slip Op 02709 (Appellate Division of the Supreme Court of the State of New York Third Department 2026) · No. CV-25-1521 · Decided April 30, 2026

SUMMARY

The Appellate Division, Third Department held that Supreme Court abused its discretion by denying the plaintiff leave to amend the complaint to add a negligence cause of action. The court found no undue prejudice or surprise to the school district and directed the plaintiff to serve the amended complaint within 20 days.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Reynolds Fitzgerald, J.P.; Powers, J.; Mackey, J.; Ryba, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	April 30, 2026
DOCKET	CV-25-1521
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed from an order of Supreme Court, Albany County, that partially denied her motion to amend the complaint to add a negligence cause of action.
STANDARD OF REVIEW	A trial court's decision on leave to amend a complaint is reviewed for clear abuse of discretion. Leave to amend should generally be freely granted absent prejudice or surprise resulting directly from the delay, unless the proposed amendment is palpably insufficient or patently devoid of merit.
PRECEDENTIAL VALUE	published
PARTIES	Riley Rohauer v. Guilderland Central School District, Jon Kauffmann

TOPICS

- motion to amend
- pleadings
- civil procedure
- negligence
- municipal law

PRACTICE AREAS

civil procedure

negligence

municipal law

personal injury

QUESTIONS PRESENTED

1. Whether Supreme Court abused its discretion by denying plaintiff's pre-note-of-issue motion to amend the complaint to add a negligence cause of action.
2. Whether the proposed negligence amendment was palpably insufficient or patently devoid of merit because plaintiff also alleged intentional conduct.
3. Whether the school district established surprise or prejudice from the proposed amendment.

HOLDINGS

1. A motion for leave to amend must generally be freely granted when the proposed amendment is not palpably insufficient or patently devoid of merit and the opposing party cannot demonstrate prejudice or surprise resulting directly from the delay.
2. At the amendment stage, plaintiff need not establish the ultimate merits of the proposed negligence claim; plaintiff need only demonstrate that the claim is not palpably insufficient or patently meritless.
3. A defendant's increased potential liability from an amendment, without more, does not constitute the prejudice required to deny leave to amend.

KEY QUOTATIONS

“The rule on a motion for leave to amend a pleading is that, in the absence of prejudice or surprise resulting directly from the delay in seeking leave, such applications are to be freely granted unless the proposed amendment is palpably insufficient or patently devoid of merit” ([*1])

“plaintiff need not establish the merits of the proposed amendments at this stage” ([*2])

“prejudice is more than the mere exposure of an opposing party to greater liability” ([*2])

FACTUAL BACKGROUND

In November 2019, Riley Rohauer, then a student at Guilderland Central School District, was struck in the back of the head by history teacher Jon Kauffmann. Rohauer's original claims included battery and intentional infliction of emotional distress against Kauffmann and negligent hiring, training, and supervision and negligent infliction of emotional distress against the school district. During discovery, Kauffmann testified that he did not intentionally strike Rohauer and that the contact was accidental, prompting Rohauer to seek leave to add a negligence claim.

PROCEDURAL HISTORY

Plaintiff commenced the action in August 2022 after obtaining permission to serve a late notice of claim. After a General Municipal Law § 50-h hearing and discovery, Guilderland moved for summary judgment, and plaintiff moved to amend the pleadings before the note of issue was filed. Supreme Court denied the requested

negligence amendment based on delay and prejudice. The Appellate Division modified the order, reversed the denial of the negligence amendment, granted that portion of plaintiff's motion, and otherwise affirmed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order was modified by reversing the portion denying plaintiff's motion to add a negligence cause of action. The motion was granted to that extent, the order was otherwise affirmed, and plaintiff was directed to serve the amended complaint within 20 days of the court's decision.

CASES CITED

- Passeri v. Brody, 199 AD3d 1260, 1261-1262 (3d Dept 2021)
- Mohammed v. New York State Professional Fire Fighters Assn., Inc., 209 AD3d 1151, 1152 (3d Dept 2022)
- Walden v. Varricchio, 195 AD3d 1111, 1112-1113 (3d Dept 2021)
- NYAHSА Servs., Inc., Self-Ins. Trust v. People Care Inc., 156 AD3d 99, 101, 103 (3d Dept 2017)
- Place v. Preferred Mut. Ins. Co., 190 AD3d 1208, 1212 (3d Dept 2021)
- Matter of Falck, 232 AD3d 1150, 1154 (3d Dept 2024)
- Matter of Perkins v. Town of Dryden Planning Bd., 172 AD3d 1695, 1697 (3d Dept 2019)
- Rutz v. Kellum, 144 AD2d 1017, 1018 (4th Dept 1988)
- Perkins v. New York State Elec. & Gas Corp., 91 AD2d 1121, 1122 (3d Dept 1983)

OPINION

PER CURIAM.

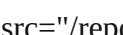
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April 30, 2026

Appellate Division, Third Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

Riley Rohauer, Appellant,

v

Guilderland Central School District et al., Respondents.

Decided and Entered: April 30, 2026 CV-25-1521 Calendar Date: March 25, 2026 Before: Reynolds Fitzgerald, J.P., Powers, Mackey And Ryba, JJ.

The Scagnelli Law Firm, PC, Albany (Peter J. Scagnelli of counsel), for appellant.

Maynard, O'Connor, Smith & Catalinotto, LLP, Albany (Robert A. Rausch of counsel), for Guilderland Central School District, respondent.

The Mills Law Firm, LLP, Clifton Park (Christopher K. Mills of counsel), for Jon Kauffmann, respondent.

Reynolds Fitzgerald, J.P.

Appeal from an order of the Supreme Court (Kimberly O'Connor, J.), entered September 4, 2025 in Albany County, which partially denied plaintiff's motion to amend the complaint.

In November 2019, plaintiff was a student at defendant Guilderland Central School District and was attending defendant Jon Kauffmann's history class when she was struck in the back of the head by Kauffmann.

In August 2022, plaintiff commenced this action and moved to serve a late notice of claim, which was granted by Supreme Court in January 2023.^{FN1} The complaint contained causes of action against Kauffmann for battery and intentional infliction of emotional distress, and asserted negligent hiring, training and supervision and negligent infliction of emotional distress against Guilderland.

A General Municipal Law § 50-h hearing was held in April 2023 and discovery ensued.

Immediately upon conclusion of depositions, and prior to the filing of the note of issue, Guilderland moved for summary judgment seeking to dismiss the complaint against it. Thereafter, plaintiff moved to amend the pleadings to, among other things, include a cause of action in negligence, and Supreme Court denied this request, concluding both that plaintiff failed to offer a reasonable explanation for her delay and that the amendment would prejudice Guilderland.

Plaintiff appeals.

Plaintiff contends that Supreme Court erred in denying her motion to amend the complaint to add a claim in negligence. "Pursuant to CPLR 3025 (b), a party may amend its pleadings at any time by leave of the court, which shall be freely given upon such terms as may be just" (*Passeri v Brody*, 199 AD3d 1260, 1261 [3d Dept 2021] [internal quotation marks and citations omitted]; *accord Mohammed v New York State Professional Fire Fighters Assn., Inc.*, 209 AD3d 1151, 1152 [3d Dept 2022]).

Permission to amend may be granted "before or after judgment to conform [the pleadings] to the evidence" (CPLR 3025 [c]). "The rule on a motion for leave to amend a pleading is that, in the absence of prejudice or surprise resulting directly from the delay in seeking leave, such applications are to be freely granted unless the proposed amendment is palpably insufficient or patently devoid of merit" (*Walden v Varricchio*, 195 AD3d 1111, 1113 [3d Dept 2021] [internal quotation marks and citations omitted]; *see Passeri v Brody*, 199 AD3d at 1261).

"Supreme Court, which has considerable latitude in exercising its discretion, may consider how long the party seeking the amendment was aware of the facts upon which the motion was

predicated and whether a reasonable excuse for the delay was offered, particularly where the delay is on the eve of trial" (*NYAHS Servs., Inc., Self-Ins. Trust v People Care Inc.*, 156 AD3d 99, 103 [3d Dept 2017] [internal quotation marks, brackets and citations omitted]; *see Place v Preferred Mut.*

Ins. Co., 190 AD3d 1208, 1212 [3d Dept 2021]). "The decision to grant leave to amend a complaint is within the trial court's sound discretion ²and will not be disturbed absent a clear abuse of that discretion" (*Walden v Varricchio*, 195 AD3d at 1112-1113 [internal quotation marks and citations omitted]; *see NYAHS Servs., Inc. Self-Ins.*

Trust v People Care Inc., 156 AD3d at 101).

In this instance, we find that Supreme Court abused its discretion in denying plaintiff's motion to amend the complaint to add a negligence cause of action (*see Mohammed v New York State Professional Fire Fighters Assn., Inc.*, 209 AD3d at 1152; *Passeri v Brody*, 199 AD3d at 1262). Initially, we note that this pre-note of issue motion was not brought on the eve of trial.

The parties had just completed depositions, and, in fact, plaintiff asserts that certain testimony given at Kauffmann's deposition prompted her motion. As to Supreme Court's finding that a negligence cause of action is inconsistent with plaintiff's assertion that defendants acted intentionally, plaintiff need not establish the merits of the proposed amendments at this stage (*see Matter of Falck*, 232 AD3d 1150, 1154 [3d Dept 2024]; *Matter of Perkins v Town of Dryden Planning Bd.*, 172 AD3d 1695, 1697 [3d Dept 2019]), but is only required to demonstrate that the proposed amendment is not palpably insufficient or patently meritless.

Here, especially in light of Kauffmann's deposition testimony wherein he testified that he did not intentionally strike plaintiff, it is not. Additionally, Guilderland cannot allege surprise, since shortly after the incident was reported to school officials, it investigated the incident and learned that Kauffmann contended his contact with plaintiff's head was accidental.

Furthermore, Guilderland's argument that it would be prejudiced because it would be subject to increased liability is unavailing as prejudice is more than the mere exposure of an opposing party to greater liability (*see NYAHS Servs., Inc. Self-Ins. Trust v People Care Inc.*, 156 AD3d at 103; *Rutz v Kellum*, 144 AD2d 1017, 1018 [4th Dept 1988]; *Perkins v New York State Elec. & Gas Corp.*, 91 AD2d 1121, 1122 [3d Dept 1983]).

Powers, Mackey and Ryba, JJ., concur.

ORDERED that the order is modified, on the law, without costs, by reversing so much thereof as denied the portion of plaintiff's motion seeking to amend her complaint to add a negligence cause of action; motion granted to that extent; and, as so modified, affirmed, and plaintiff is directed to serve the amended complaint within 20 days of the date of this Court's decision.

Footnotes

Footnote 1

As plaintiff was an infant at the time of the commencement of the action, the action was brought by her parents on her behalf.

Plaintiff achieved majority during the pendency of the action, and the caption was amended. For purposes of clarity, this decision uses the term plaintiff in all instances.

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PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. Riley Rohauer, Appellant, v Guilderland Central School District et al., Respondents. Decided and Entered: April 30, 2026 CV-25-1521 Calendar Date: March 25, 2026 Before: Reynolds Fitzgerald, J.P., Powers, Mackey And Ryba, JJ. The Scagnelli Law Firm, PC, Albany (Peter J. Scagnelli of counsel), for appellant.

Maynard, O'Connor, Smith & Catalinotto, LLP, Albany (Robert A. Rausch of counsel), for Guilderland Central School District, respondent. The Mills Law Firm, LLP, Clifton Park (Christopher K. Mills of counsel), for Jon Kauffmann, respondent. [*1] Reynolds Fitzgerald, J.P. Appeal from an order of the Supreme Court (Kimberly O'Connor, J.), entered September 4, 2025 in Albany County, which partially denied plaintiff's motion to amend the complaint.

In November 2019, plaintiff was a student at defendant Guilderland Central School District and was attending defendant Jon Kauffmann's history class when she was struck in the back of the head by Kauffmann. In August 2022, plaintiff commenced this action and moved to serve a late notice of claim, which was granted by Supreme Court in January 2023. FN1 The complaint contained causes of action against Kauffmann for battery and intentional infliction of emotional distress, and asserted negligent hiring, training and supervision and negligent infliction of emotional distress against Guilderland.

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Plaintiff appeals. Plaintiff contends that Supreme Court erred in denying her motion to amend the complaint to add a claim in negligence. "Pursuant to CPLR 3025 (b), a party may amend its pleadings at any time by leave of the court, which shall be freely given upon such terms as may be just" (*Passeri v Brody*, 199 AD3d 1260, 1261 [3d Dept 2021] [internal quotation marks and citations omitted]; accord *Mohammed v New York State Professional Fire Fighters Assn., Inc.*, 209 AD3d 1151, 1152 [3d Dept 2022]).

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Powers, Mackey and Ryba, JJ., concur. ORDERED that the order is modified, on the law, without costs, by reversing so much thereof as denied the portion of plaintiff's motion seeking to amend her complaint to add a negligence cause of action; motion granted to that extent; and, as so modified, affirmed, and plaintiff is directed to serve the amended complaint within 20 days of the date of this Court's decision.

Footnotes Footnote 1 As plaintiff was an infant at the time of the commencement of the action, the action was brought by her parents on her behalf. Plaintiff achieved majority during the pendency of the action, and the caption was amended.

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