

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

Miguel A. Ramirez Diaz, et al. v. Edward R. Gomez, et al.

2026 NY Slip Op 01487 · No. 2024-11729 · Decided March 18, 2026

SUMMARY

The Appellate Division, Second Department, reversed an order denying defendants’ motion to disqualify plaintiffs’ counsel in a personal-injury action arising from a rear-end automobile accident. The court held that counsel’s joint representation of the plaintiff driver and passenger plaintiffs created a conflict after defendants asserted a counterclaim against the driver, and that the record did not establish informed written consent to the potential conflict.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Paul Wooten, J.; Deborah A. Dowling, J.; Carl J. Landicino, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	March 18, 2026
DOCKET	2024-11729
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendants appealed from an order denying their motion to disqualify plaintiffs' counsel based on a conflict of interest.
STANDARD OF REVIEW	A trial court's determination on attorney disqualification is reviewed for abuse of discretion; the moving party bears the burden of demonstrating that disqualification is warranted.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Edward R. Gomez, Canada Dry Bottling Company of New York, L.P. v. Miguel A. Ramirez Diaz, Carlos E. Acosta Abreu, Rigoberto Jerez Vicioso, Yoselin Veloz Garcia

TOPICS

civil procedure

appellate procedure

standard of review

personal injury

PRACTICE AREAS

civil procedure

legal ethics

personal injury

QUESTIONS PRESENTED

1. Whether Gambone Law Group, PLLC, had to be disqualified from representing the plaintiff driver and passenger plaintiffs because the defendants' counterclaim against the plaintiff driver created a conflict of interest.
2. Whether the plaintiffs waived the potential conflict under Rule 1.7(b) of the New York Rules of Professional Conduct.

HOLDINGS

1. The defendants demonstrated that Gambone's representation of the plaintiff driver and the passenger plaintiffs created a conflict of interest because the plaintiff driver's pecuniary interests conflicted with those of the passengers once the defendants asserted a counterclaim against him.
2. Under the circumstances, Gambone should be disqualified from continuing to represent any of the plaintiffs in the action.
3. The record was inadequate to establish that the plaintiffs waived the potential conflict under Rule 1.7(b) because counsel failed to submit written confirmation of informed consent.

KEY QUOTATIONS

*“A party's entitlement to be represented by counsel of his or her choice is a valued right which should not be abridged absent a clear showing that disqualification is warranted” (*1)*

*“the pecuniary interests of the plaintiff driver conflicted with those of the passengers once the defendants asserted the counterclaim against the plaintiff driver” (*2)*

FACTUAL BACKGROUND

On January 28, 2021, Miguel A. Ramirez Diaz was allegedly stopped at a red traffic signal when his vehicle was struck from behind by a vehicle operated by Edward R. Gomez and owned by Canada Dry Bottling Company of New York, L.P. Diaz and three passengers jointly sued the defendants for personal injuries and were represented by Gambone Law Group, PLLC. The defendants asserted a counterclaim against Diaz for common-law indemnification or contribution, alleging that the plaintiffs' injuries resulted in whole or substantial part from Diaz's negligence.

PROCEDURAL HISTORY

Plaintiffs commenced a personal-injury action against the defendant driver and vehicle owner. The defendants asserted a counterclaim against the plaintiff driver for common-law indemnification or contribution and later moved to disqualify the law firm jointly representing the plaintiff driver and passengers. The Supreme Court,

Queens County, denied the motion, finding no conflict because the plaintiff driver was not at fault. The Appellate Division reversed and granted the motion.

DISPOSITION

reversed

CASES CITED

- Buckham v 322 Equity, LLC, 229 AD3d 669, 672
- Alnoukari v Nokari, 218 AD3d 527, 528
- Greenberg v Grace Plaza Nursing & Rehabilitation Ctr., 174 AD3d 510, 510
- Matter of Blauman-Spindler v Blauman, 184 AD3d 636, 637
- Shelby v Blakes, 129 AD3d 823, 825
- Alcantara v Mendez, 303 AD2d 337, 338
- Pessoni v Rabkin, 220 AD2d 732
- Sidor v Zuhoski, 261 AD2d 529, 530