

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

Felton v. St. Joseph Hosp.

2026 NY Slip Op 01159 (App. Div. 1st Dep't 2026) · No. Case No. 2024-03450; Appeal No. 4613; Index No. 23808/20 · Decided March 3, 2026

SUMMARY

The Appellate Division, First Department reversed the denial of defendants' summary judgment motions in an action alleging violation of the right of sepulcher. The court held that the decedent's domestic partner had priority under Public Health Law § 4201(2)(a) to control disposition of the remains, and dismissed the complaint and all cross-claims.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Per Curiam; Moulton, J.P.; Scarpulla, J.; Gesmer, J.; Rosado, J.; O'Neill Levy, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	March 3, 2026
DOCKET	Case No. 2024-03450; Appeal No. 4613; Index No. 23808/20
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendants appealed from an order denying their separate motions for summary judgment dismissing plaintiffs' claims and all cross-claims.
STANDARD OF REVIEW	The court reviewed the denial of summary judgment as a matter of law, determining whether defendants established their prima facie entitlement to judgment and whether plaintiffs raised a material issue of fact.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	St. Joseph Hospital et al., Greenwood Crematory, Ackerman Funeral Chapel, Inc. v. Sharelle Felton et al.

TOPICS

- summary judgment
- civil procedure
- appellate procedure
- estate administration

PRACTICE AREAS

funeral and burial law

civil procedure

summary judgment

appellate procedure

QUESTIONS PRESENTED

1. Whether the undisputed evidence established that Dawn Taddeo was Felton's domestic partner under Public Health Law § 4201 and therefore had priority over Felton's adult children to control disposition of his remains.
2. Whether plaintiffs raised a material issue of fact sufficient to defeat defendants' motions for summary judgment.
3. Whether defendants' cross-claims should be dismissed when plaintiffs' underlying claims were dismissed.

HOLDINGS

1. The totality of the undisputed circumstances established that Taddeo was Felton's domestic partner under Public Health Law § 4201(2)(a), giving her priority over his adult children to control disposition of his remains.
2. Plaintiffs failed to raise a material issue of fact because they did not dispute the defendants' evidence and relied solely on self-serving testimony that Taddeo and Felton had ended their romantic relationship before his death.
3. Because Taddeo had priority to control disposition of Felton's remains, plaintiffs could not maintain their claim for violation of the right of sepulcher.
4. All cross-claims asserted by defendants were dismissed because there was no underlying liability to plaintiffs.

KEY QUOTATIONS

"Domestic partner" is defined as a person who, with respect to another person: "is dependent or mutually interdependent on the other person for support, as evidenced by the totality of the circumstances indicating a mutual intent to be domestic partners including but not limited to: common ownership or joint leasing of real or personal property; common householding, shared income or shared expenses; children in common; signs of intent to marry or become domestic partners under subparagraph (i) or (ii) of this paragraph; or the length of the personal relationship of the persons"

"The totality of these undisputed circumstances show that Ms. Taddeo was the decedent's domestic partner with priority to control the disposition of his remains."

FACTUAL BACKGROUND

Otis Felton died at St. Joseph Hospital after being transported from a nursing home in cardiac arrest. Dawn Taddeo, who had been in a romantic relationship with Felton for more than 20 years and had two children with him, was identified as his spouse or wife in hospital and nursing-home records. After Felton's death, Taddeo

arranged and paid for cremation, and the funeral home and crematory relied on her authority; Felton's alleged adult children later claimed that defendants violated their right of sepulcher.

PROCEDURAL HISTORY

The Supreme Court, Bronx County, denied defendants' separate summary judgment motions. The Appellate Division reversed on the law, granted the motions, dismissed the complaint and all cross-claims against the moving defendants, and directed entry of judgment.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The motions for summary judgment were granted, the complaint and all cross-claims against the moving defendants were dismissed, and the Clerk was directed to enter judgment accordingly.

CASES CITED

- Turner v. Owens Funeral Home, Inc., 140 A.D.3d 632, 634 (1st Dep't 2016)
- Mack v. Brown, 82 A.D.3d 133, 138-139 (2d Dep't 2011)
- Canty v. 133 E. 79th St., LLC, 167 A.D.3d 548, 549 (1st Dep't 2018)