

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

Ygnacio Prado v. Town/Village of Harrison, et al.

Ygnacio Prado v. Town/Village of Harrison, 2025 NY Slip Op 06881 (2d Dep't 2025) · No. 2024-08516 ·  
Decided December 10, 2025

SUMMARY

The Appellate Division, Second Department reversed a judgment dismissing Ygnacio Prado's personal-injury action arising from a motor vehicle accident. The court held that the defendants failed to establish prima facie that Prado did not sustain a serious injury under Insurance Law § 5102(d), and that his motion to amend the complaint to add Frederick J. Gioffre was timely because it was filed within the applicable limitations period.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                     |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, Second Judicial Department                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Lara J. Genovesi, J.P.; Barry E. Warhit; Helen Voutsinas; Phillip Hom                                                                                                                                                                                                                               |
| JURISDICTION          | Supreme Court of the State of New York, Appellate Division, Second Judicial Department                                                                                                                                                                                                              |
| DECIDED               | December 10, 2025                                                                                                                                                                                                                                                                                   |
| DOCKET                | 2024-08516                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | reversed                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Plaintiff appealed from a judgment dismissing his personal-injury complaint after the Supreme Court denied leave to amend the complaint to add Frederick J. Gioffre and granted defendants' motion for summary judgment based on failure to sustain a serious injury under Insurance Law § 5102(d). |
| STANDARD OF REVIEW    | Summary judgment is reviewed under the prima facie burden framework; a defendant must establish entitlement to judgment as a matter of law before the burden shifts to the plaintiff. Leave to amend a complaint is reviewed on the law and in the exercise of discretion.                          |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                           |
| PARTIES               | Ygnacio Prado v. Town/Village of Harrison, et al.                                                                                                                                                                                                                                                   |

## TOPICS

personal injury

summary judgment

statute of limitations

motion to amend

appellate procedure

## PRACTICE AREAS

personal injury

motor vehicle negligence

New York no-fault serious-injury threshold

civil procedure

## QUESTIONS PRESENTED

1. Whether defendants established prima facie that the plaintiff did not sustain a serious injury within the meaning of Insurance Law § 5102(d).
2. Whether defendants established prima facie that the plaintiff's alleged head and cervical-spine injuries were not caused or exacerbated by the accident.
3. Whether the plaintiff's motion for leave to amend the complaint to add Frederick J. Gioffre was timely when filed within the limitations period but decided after that period expired.

## HOLDINGS

1. Defendants failed to establish prima facie that the plaintiff did not sustain a serious injury within the permanent consequential limitation of use or significant limitation of use categories of Insurance Law § 5102(d).
2. Defendants failed to establish prima facie that the alleged head and cervical-spine injuries were not caused by, or did not result from exacerbation by, the accident; therefore, the burden never shifted to plaintiff to prove causation or explain a gap in treatment.
3. The motion for leave to amend was timely because it was filed within the applicable three-year limitations period and included proposed pleadings, even though the court ruled after the limitations period expired.

## KEY QUOTATIONS

*“Since the defendants failed to establish that the alleged injuries to the cervical region of the plaintiff’s spine and to his head were not caused or exacerbated by the accident, the burden never shifted to the plaintiff to raise a triable issue of fact regarding causation or to explain any gap in treatment” (\*2)*

*“when a motion for leave to amend a complaint to add a defendant “is filed with the court within the applicable limitations period, but the ruling by the court does not occur until after expiration, dismissal is inappropriate and would offend the CPLR’s liberal policies of promoting judicial economy and preventing a multiplicity of suits”” (\*2)*

## FACTUAL BACKGROUND

The plaintiff allegedly sustained injuries to the cervical region of his spine and to his head in a motor-vehicle accident on October 29, 2020. He claimed that the accident caused or exacerbated preexisting injuries. Defendants submitted materials in support of summary judgment, but the Appellate Division found that those

submissions did not competently establish that the plaintiff failed to sustain a serious injury or that the head injuries were unrelated to the accident.

### PROCEDURAL HISTORY

Prado commenced an action arising from an October 29, 2020 motor-vehicle accident. He moved on October 18, 2023, for leave to amend the complaint to add Frederick J. Gioffre; the Supreme Court denied that motion as untimely. The Supreme Court later granted defendants' summary-judgment motion, and entered judgment dismissing the complaint on August 5, 2024. The Appellate Division reversed, reinstated the complaint, granted leave to amend, and denied defendants' summary-judgment motion.

### DISPOSITION

reversed

### CASES CITED

- Toure v. Avis Rent A Car Sys., 98 N.Y.2d 345
- Gaddy v. Eyler, 79 N.Y.2d 955, 956-957
- Polight v. Martin, 237 A.D.3d 990, 991
- Zennia v. Ramsey, 208 A.D.3d 735, 735
- Tarnagorski v. Donofrio, 185 A.D.3d 865, 865
- Petric v. Retsina Cab Corp., 235 A.D.3d 672, 673
- Weber v. Kalisky, 218 A.D.3d 629, 630
- Sanclemente v. MTA Bus Co., 116 A.D.3d 688, 689
- Cortez v. Nugent, 175 A.D.3d 1383, 1384
- Pommells v. Perez, 4 N.Y.3d 566, 572
- Winegrad v. New York Univ. Med. Ctr., 64 N.Y.2d 851, 853
- Che Hong Kim v. Kossoff, 90 A.D.3d 969, 969
- Perez v. Paramount Communications, 92 N.Y.2d 749, 754
- Schlapa v. Consolidated Edison Co. of N.Y., Inc., 174 A.D.3d 934, 936