

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

De La Rosa v. Isabella Geriatric Ctr., Inc.

2026 NY Slip Op 02447 · No. Case No. 2025-01529; Appeal No. 6462; Index No. 152822/22 · Decided April 23, 2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed an order denying a nursing home's motion to dismiss claims arising from a resident's COVID-19 death. The court held that the defendant established some conditions for immunity under the former Emergency or Disaster Treatment Protection Act but that issues of fact remained concerning gross negligence, compliance with COVID-19 protocols, and whether services were provided in good faith.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Kennedy, J.; González, J.; Pitt-Burke, J.; Rosado, J.
JURISDICTION	New York, Appellate Division, First Department
DECIDED	April 23, 2026
DOCKET	Case No. 2025-01529; Appeal No. 6462; Index No. 152822/22
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order denying its CPLR 3211(a)(7) motion to dismiss a complaint alleging that the defendant's nursing home negligence caused the decedent's COVID-19 death.
PRECEDENTIAL VALUE	Published
PARTIES	Isabella Geriatric Center, Inc., doing business as Isabella Center for Rehabilitation and Nursing Care v. Maria Alexandra De La Rosa, also known as Maria A. De La Rosa

TOPICS

- nursing home liability
- health law
- motions to dismiss
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether defendant established as a matter of law that it was immune from liability under former Public Health Law § 3082(1), the Emergency or Disaster Treatment Protection Act.
2. Whether factual issues remained regarding whether defendant provided the decedent health care services in good faith and whether defendant was grossly negligent, precluding dismissal under CPLR 3211(a)(7).

HOLDINGS

1. Defendant was not entitled to dismissal based on immunity because it failed to establish as a matter of law that all conditions for immunity under former Public Health Law § 3082(1) were satisfied.
2. Dismissal was improper because issues of fact existed concerning plaintiff's gross-negligence claim and whether defendant provided the decedent health care services in good faith.

KEY QUOTATIONS

*“Nevertheless, the court correctly denied the motion, as issues of fact exist concerning plaintiff's claim of gross negligence and the third condition imposed by former Public Health Law § 3082(1) — namely, whether defendant provided decedent “health care services in good faith”” ([*2])*

*“Thus, at this stage, while the record shows that defendant implemented specific policies to prevent and control the spread of COVID-19, there remain questions concerning whether defendant complied with those same policies.” ([*2])*

FACTUAL BACKGROUND

Decedent Bartolina Morel resided at Isabella Geriatric Center's nursing home facility in Manhattan. On April 4, 2020, while in defendant's care, she contracted COVID-19, was transferred to New York Presbyterian Hospital, and died later that day. Plaintiff alleged that defendant failed to protect its residents from COVID-19. Plaintiff also submitted a May 18, 2020 citation alleging that defendant failed to use facemasks and comply with cohorting requirements.

PROCEDURAL HISTORY

Supreme Court, New York County, denied Isabella Geriatric Center's motion to dismiss the complaint under CPLR 3211(a)(7). The Appellate Division, First Department, unanimously affirmed without costs, holding that defendant had not established entitlement to immunity under the Emergency or Disaster Treatment Protection Act as a matter of law because factual issues remained regarding good-faith provision of health care services and gross negligence.

DISPOSITION

affirmed

CASES CITED

- Holder v. Jacob, 231 A.D.3d 78, 82-83, 87 (1st Dep't 2024)
- Jackson v. Bronxcare Health Sys., 236 A.D.3d 594, 595 (1st Dep't 2025)
- Madourie v. Montefiore Med. Ctr., 246 A.D.3d 247, 248-249 (1st Dep't 2026)

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