

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

Parmanand v. Centeno

2025 NY Slip Op 07393 (N.Y. Ct. App. 2025) · No. 2023-01666 · Decided December 31, 2025

SUMMARY

The Appellate Division, Second Department, affirmed an order denying the plaintiff leave to renew prior summary judgment submissions in a wrongful death action arising from a pedestrian’s death after being struck by a vehicle. The court held that the plaintiff failed to show that the omitted police report would have changed the prior determinations, as required for renewal under CPLR 2221(e).

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Valerie Brathwaite Nelson, J.; Janice A. Taylor, J.; Lourdes M. Ventura, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 31, 2025
DOCKET	2023-01666
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from an order denying leave to renew her prior cross-motion for summary judgment on liability and her opposition to the defendants' motion for summary judgment.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Raywatie Parmanand v. Lesley Ann Centeno, Robert Centeno, Jr.

TOPICS

- motion for reconsideration
- summary judgment
- wrongful death
- civil procedure
- appellate procedure

PRACTICE AREAS

- civil procedure
- wrongful death
- appellate procedure

QUESTIONS PRESENTED

1. Whether the plaintiff established grounds for leave to renew her prior cross-motion for summary judgment on liability and her opposition to the defendants' summary-judgment motion.
2. Whether the newly submitted police report constituted new material that would have changed the prior determinations and whether the plaintiff reasonably justified its omission from the prior submissions.

HOLDINGS

1. Leave to renew requires new facts not offered on the prior motion that would change the prior determination and a reasonable justification for failing to present those facts previously; the plaintiff failed to satisfy that standard.

KEY QUOTATIONS

“A motion for leave to renew shall be based upon new facts not offered on the prior motion that would change the prior determination and shall contain reasonable justification for the failure to present such facts on the prior motion” ([*1])

FACTUAL BACKGROUND

In May 2017, the decedent was taken by ambulance to Jamaica Hospital Medical Center for severe intoxication and a minor head injury and was discharged at approximately 2:00 a.m. Shortly afterward, he attempted to cross the adjacent Van Wyck Expressway on foot and was struck and killed by a vehicle driven by Lesley Ann Centeno and allegedly owned by Robert Centeno, Jr. The plaintiff brought a wrongful-death action and later sought renewal after discovering that a police report had been inadvertently omitted from her earlier submissions.

PROCEDURAL HISTORY

The Centeno defendants moved for summary judgment dismissing the wrongful-death complaint and cross-claims, while the plaintiff cross-moved for summary judgment on liability. The Supreme Court, Queens County, granted the defendants' motion and denied the plaintiff's cross-motion in an August 9, 2022 order. The plaintiff then sought leave to renew based on an inadvertently omitted police report; the court denied renewal in a January 13, 2023 order, and the Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Bank of N.Y. Mellon Trust Co., N.A. v. Talukder, 176 A.D.3d 772, 773
- Pixtun-Suret v. Gevinski, 165 A.D.3d 715

OPINION

Parmanand v. Centeno 2025 NY Slip Op 07393

PER CURIAM.

Parmanand v Centeno (2025 NY Slip Op 07393) Parmanand v Centeno 2025 NY Slip Op 07393
Decided on December 31, 2025 Appellate Division, Second Department Published by New York
State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and
subject to revision before publication in the Official Reports. Decided on December 31, 2025

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department BETSY BARROS, J.P.

VALERIE BRATHWAITE NELSON

JANICE A. TAYLOR

LOURDES M. VENTURA, JJ. 2023-01666

(Index No. 719603/18) [*1]Raywatie Parmanand, etc., appellant, v Lesley Ann Centeno, et al., respondents, et al., defendants. Michael Manoussos & Co, PLLC, Kew Gardens, NY, for appellant. DECISION & ORDER In an action, inter alia, to recover damages for wrongful death, the plaintiff appeals from an order of the Supreme Court, Queens County (Peter J. O'Donoghue, J.), dated January 13, 2023. The order, insofar as appealed from, denied that branch of the plaintiff's motion which was for leave to renew her prior cross-motion for summary judgment on the issue of liability insofar as asserted against the defendants Lesley Ann Centeno and Robert Centeno, Jr., which had been denied in an order of the same court dated August 9, 2022, and her opposition to that branch of the prior motion of the defendants Lesley Ann Centeno and Robert Centeno, Jr., which was for summary judgment dismissing the complaint insofar as asserted against them, which had been granted in the order dated August 9, 2022. ORDERED that the order dated January 13, 2023, is affirmed insofar as appealed from, without costs or disbursements. In May 2017, the decedent was brought by ambulance to the defendant Jamaica Hospital Medical Center, where he was treated for severe intoxication and a minor head injury. At approximately 2:00 a.m. on the morning after his arrival, the decedent was discharged from the hospital, and shortly thereafter he attempted to cross the adjacent Van Wyck Expressway on foot. While crossing, he was struck and killed by an automobile driven by the defendant Lesley Ann Centeno and allegedly owned by the defendant Robert Centeno, Jr. (hereinafter together the Centeno defendants). The plaintiff commenced this action against, among others, the Centeno defendants, inter alia, to recover damages for wrongful death. Following discovery, the Centeno defendants moved for summary judgment dismissing the complaint and all cross-claims insofar as asserted against them. The plaintiff cross-moved for summary judgment on the issue of liability insofar as asserted against the Centeno defendants. In an order dated August 9, 2022, the Supreme Court, among other things, granted the Centeno defendants' motion and denied the plaintiff's cross-motion. Thereafter, the plaintiff moved, inter alia, for leave to renew her prior cross-motion and her opposition to that branch of the Centeno defendants' prior motion which was for summary judgment dismissing the complaint insofar as asserted against them, based on the inadvertent

omission of a police report from her prior submissions. By order dated January 13, 2023, the Supreme Court, among other things, denied that branch of the plaintiff's motion. The plaintiff appeals. "A motion for leave to renew shall be based upon new facts not offered on the prior motion that would change the prior determination and shall contain reasonable justification for the failure to present such facts on the prior motion" (Bank of N.Y. Mellon Trust Co., N.A. v Talukder , 176 AD3d 772, 773 [internal quotation marks omitted]; see also CPLR 2221[e][2], [3]). Here, the plaintiff failed to demonstrate that the new material presented would have changed the prior determinations (see Pixtun-Suret v Gevinski , 165 AD3d 715). Accordingly, the Supreme Court properly denied that branch of the plaintiff's motion which was for leave to renew her prior cross-motion and her opposition to that branch of the Centeno defendants' prior motion which was for summary judgment dismissing the complaint insofar as asserted against them. BARROS, J.P., BRATHWAITE NELSON, TAYLOR and VENTURA, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

PER CURIAM.

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SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department BETSY BARROS, J.P.

VALERIE BRATHWAITE NELSON

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(Index No. 719603/18) [*1]Raywatie Parmanand, etc., appellant, v Lesley Ann Centeno, et al., respondents, et al., defendants. Michael Manoussos & Co, PLLC, Kew Gardens, NY, for appellant. DECISION & ORDER In an action, inter alia, to recover damages for wrongful death, the plaintiff appeals from an order of the Supreme Court, Queens County (Peter J. O'Donoghue, J.), dated January 13, 2023. The order, insofar as appealed from, denied that branch of the plaintiff's motion which was for leave to renew her prior cross-motion for summary judgment on the issue of liability insofar as asserted against the defendants Lesley Ann Centeno and Robert Centeno, Jr., which had been denied in an order of the same court dated August 9, 2022, and her opposition to that branch of the prior motion of the defendants Lesley Ann Centeno and Robert Centeno, Jr., which was for summary judgment dismissing the complaint insofar as asserted against them, which had been granted in the order dated August 9, 2022. ORDERED that the order dated January 13, 2023, is affirmed insofar as appealed from, without costs or disbursements. In May 2017, the decedent was brought by ambulance to the defendant Jamaica Hospital Medical Center, where he was treated for severe intoxication and a minor head injury. At approximately 2:00 a.m. on the morning after his arrival, the decedent was discharged from the

hospital, and shortly thereafter he attempted to cross the adjacent Van Wyck Expressway on foot. While crossing, he was struck and killed by an automobile driven by the defendant Lesley Ann Centeno and allegedly owned by the defendant Robert Centeno, Jr. (hereinafter together the Centeno defendants). The plaintiff commenced this action against, among others, the Centeno defendants, inter alia, to recover damages for wrongful death. Following discovery, the Centeno defendants moved for summary judgment dismissing the complaint and all cross-claims insofar as asserted against them. The plaintiff cross-moved for summary judgment on the issue of liability insofar as asserted against the Centeno defendants. In an order dated August 9, 2022, the Supreme Court, among other things, granted the Centeno defendants' motion and denied the plaintiff's cross-motion. Thereafter, the plaintiff moved, inter alia, for leave to renew her prior cross-motion and her opposition to that branch of the Centeno defendants' prior motion which was for summary judgment dismissing the complaint insofar as asserted against them, based on the inadvertent omission of a police report from her prior submissions. By order dated January 13, 2023, the Supreme Court, among other things, denied that branch of the plaintiff's motion. The plaintiff appeals. "A motion for leave to renew shall be based upon new facts not offered on the prior motion that would change the prior determination and shall contain reasonable justification for the failure to present such facts on the prior motion" (*Bank of N.Y. Mellon Trust Co., N.A. v Talukder* , 176 AD3d 772 , 773 [internal quotation marks omitted]; see also CPLR 2221[e][2], [3]). Here, the plaintiff failed to demonstrate that the new material presented would have changed the prior determinations (see *Pixtun-Suret v Gevinski* , 165 AD3d 715). Accordingly, the Supreme Court properly denied that branch of the plaintiff's motion which was for leave to renew her prior cross-motion and her opposition to that branch of the Centeno defendants' prior motion which was for summary judgment dismissing the complaint insofar as asserted against them. BARROS, J.P., BRATHWAITE NELSON, TAYLOR and VENTURA, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court