

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

Carter v. Patterson

2021 NY Slip Op 04796 (N.Y. Ct. App. 2021) · No. 136 CA 20-00136 · Decided August 26, 2021

SUMMARY

The Appellate Division, Fourth Department modified an amended order in a motor-vehicle negligence action involving alleged serious injuries under New York Insurance Law § 5102(d). The court held that factual issues remained regarding causation and the significant-limitation and 90/180-day serious-injury categories, but granted plaintiff partial summary judgment establishing defendant's negligence and proximate cause.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Peradotto, J.P.; Carni, J.; Nemoyer, J.; Troutman, J.; Winslow, J.
JURISDICTION	New York
DECIDED	August 26, 2021
DOCKET	136 CA 20-00136
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed and plaintiff cross-appealed from an amended order denying defendant's motion for summary judgment, granting plaintiff partial summary judgment on certain serious-injury categories, and denying plaintiff partial summary judgment on negligence and proximate cause.
STANDARD OF REVIEW	Summary judgment is proper only when the movant establishes entitlement to judgment as a matter of law; the opposing party must then demonstrate a triable issue of fact. On summary judgment, the court determines whether triable factual issues exist rather than resolving competing expert opinions.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion; precedential within the applicable New York court system subject to later treatment.

PARTIES

Jermaine Patterson, Louis S. Carter v. Louis S. Carter, Jermaine Patterson

TOPICS

summary judgment

negligence

proximate cause

appellate procedure

PRACTICE AREAS

Torts

Automobile negligence

New York no-fault serious-injury threshold

Summary judgment

QUESTIONS PRESENTED

1. Whether defendant was entitled to summary judgment on the ground that plaintiff did not sustain a serious injury causally related to the accident.
2. Whether plaintiff was entitled to partial summary judgment on the significant-limitation-of-use and 90/180-day categories of serious injury.
3. Whether plaintiff was entitled to partial summary judgment establishing that defendant was negligent and that his negligence was a proximate cause of the accident.

HOLDINGS

1. Defendant was not entitled to summary judgment because his submissions raised triable issues concerning causation, and plaintiff submitted conflicting medical evidence sufficient to raise a triable issue concerning whether the accident caused his alleged injuries.
2. Plaintiff was not entitled to summary judgment on the significant-limitation-of-use and 90/180-day categories because defendant's expert evidence raised triable issues of fact.
3. Plaintiff was entitled to partial summary judgment establishing that defendant was negligent and that defendant's negligence was a proximate cause of the accident.

KEY QUOTATIONS

*“Contrary to defendant's contention, his own submissions in support of his motion raise triable issues of fact with respect to whether the motor vehicle accident caused plaintiff's alleged injuries” (*1)*

*“Plaintiff also established that defendant's negligence was a proximate cause of the collision” (*3)*

FACTUAL BACKGROUND

Plaintiff's vehicle was stopped at a stop sign when it was struck after defendant Jermaine Patterson's vehicle collided in the intersection with a vehicle driven by Ebony R. Pace. Plaintiff alleged that the accident caused two herniated discs and other spinal injuries satisfying the significant-limitation-of-use, permanent-consequential-limitation-of-use, and 90/180-day categories of serious injury under Insurance Law § 5102(d). The parties submitted conflicting medical evidence concerning whether plaintiff's injuries were traumatic or degenerative and whether they impaired his customary activities.

PROCEDURAL HISTORY

Plaintiff sued for injuries allegedly sustained when his vehicle was struck after defendant's vehicle collided with another vehicle at an intersection. Supreme Court, Erie County, denied defendant's motion for summary judgment, granted plaintiff's cross motion in part on the significant-limitation-of-use and 90/180-day serious-injury categories, and denied plaintiff's motion for partial summary judgment on negligence. The Appellate Division modified the order by denying plaintiff summary judgment on the significant-limitation-of-use and 90/180-day categories and granting plaintiff summary judgment on defendant's negligence and proximate cause, and otherwise affirmed.

DISPOSITION

other

REMAND INSTRUCTIONS

The amended order was modified to deny plaintiff's cross motion for partial summary judgment on the significant-limitation-of-use and 90/180-day serious-injury categories and to grant plaintiff's motion for partial summary judgment establishing that Patterson was negligent and that his negligence was a proximate cause of the accident. As modified, the order was affirmed.

CASES CITED

- Franchini v. Palmieri, 1 N.Y.3d 536, 537 (2003)
- Zuckerman v. City of New York, 49 N.Y.2d 557, 562 (1980)
- Schaubroeck v. Moriarty, 162 A.D.3d 1608, 1609 (4th Dep't 2018)
- Crane v. Glover, 151 A.D.3d 1841, 1842 (4th Dep't 2017)
- Baldauf v. Gambino, 177 A.D.3d 1307, 1308 (4th Dep't 2019)
- Chunn v. Carman, 8 A.D.3d 745, 746-747 (3d Dep't 2004)
- Latini v. Barwell, 181 A.D.3d 1305, 1307 (4th Dep't 2020)
- Yoonessi v. Givens, 39 A.D.3d 1164, 1165-1166 (4th Dep't 2007)
- Pommells v. Perez, 4 N.Y.3d 566, 574 (2005)
- Vitez v. Shelton, 6 A.D.3d 1180, 1181-1182 (4th Dep't 2004)
- George v. City of Syracuse, 188 A.D.3d 1612, 1613 (4th Dep't 2020)
- Savilo v. Denner, 170 A.D.3d 1570, 1570-1571 (4th Dep't 2019)
- Howard v. Espinosa, 70 A.D.3d 1091, 1093 (3d Dep't 2010)
- Edwards v. Devine, 111 A.D.3d 1370, 1372 (4th Dep't 2013)
- Peterson v. Ward, 156 A.D.3d 1438, 1439 (4th Dep't 2017)
- Rolls v. State of New York, 129 A.D.3d 1638, 1638-1639 (4th Dep't 2015)
- Van Doren v. Dressler, 45 A.D.3d 1366, 1367 (4th Dep't 2007)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-supreme-court-of-the-state-of-new-york-appellate-division-fourth-judicial-department/2021/carter-v-patterson-r7p2dldk>