

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

Stumacher v. Medical Liab. Mut. Ins. Co.

Stumacher, 2026 NY Slip Op 02734 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 157477/24; Appeal No. 6499; Case No. 2025-02664 · Decided April 30, 2026

SUMMARY

The Appellate Division, First Department modified an order denying motions to dismiss in an action involving alleged insurer bad faith and legal malpractice. It dismissed the plaintiff's separate cause of action for punitive damages against Medical Liability Mutual Insurance Company but held that the complaint adequately pleaded a demand for punitive damages. The court otherwise affirmed the denial of the motion to dismiss claims against the defense law firm and attorney.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Kennedy, J.P.; González Rosado, J.; Chan, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	April 30, 2026
DOCKET	Index No. 157477/24; Appeal No. 6499; Case No. 2025-02664
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from an order of Supreme Court, New York County, denying motions to dismiss claims against the insurer and the insurer's attorneys.
STANDARD OF REVIEW	On a motion to dismiss under CPLR 3211(a)(7), the complaint is afforded a liberal construction and its alleged facts are accepted as true; dismissal based on documentary evidence under CPLR 3211(a)(1) is proper only where the evidence conclusively establishes a defense as a matter of law.
PRECEDENTIAL VALUE	published
PARTIES	Medical Liability Mutual Insurance Company, Marshall Dennehey Warner Coleman & Goggin, P.C., Kevin Ryan v. Richard Stumacher

TOPICS

insurance bad faith

professional negligence

punitive damages

motions to dismiss

appellate procedure

PRACTICE AREAS

insurance

professional negligence

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the complaint adequately stated a claim or demand for punitive damages against MLMIC based on alleged egregious insurance-claim handling.
2. Whether a separate cause of action for punitive damages could be maintained as a pleading matter.
3. Whether the complaint adequately alleged breach of duty, causation, and ascertainable damages against Marshall Dennehey and Ryan for legal malpractice.
4. Whether documentary evidence conclusively established a defense requiring dismissal of the legal-malpractice claims.

HOLDINGS

1. The complaint adequately alleged a demand for punitive damages against MLMIC because it pleaded egregious conduct directed not only at Stumacher but more broadly at MLMIC's other insureds in New York and nationwide, beyond a mere failure to settle within policy limits.
2. No separate cause of action for punitive damages lies for pleading purposes; the third cause of action against MLMIC was properly dismissed, although the demand for punitive damages could remain.
3. The complaint adequately alleged that Marshall Dennehey and Ryan breached a duty of care and that the breach caused ascertainable damages.
4. The documentary evidence submitted by Marshall Dennehey and Ryan did not conclusively establish a defense to the legal-malpractice cause of action as a matter of law.

KEY QUOTATIONS

*"Thus, while 'no separate cause of action for punitive damages lies for pleading purposes . . . the complaint, . . . adequately alleges a demand for punitive damages' against MLMIC" ([*1])*

*"The complaint adequately alleges that defendants breached their duty of care, and that such breach caused ascertainable damages." ([*1])*

FACTUAL BACKGROUND

The complaint alleged that MLMIC mishandled an underlying medical-malpractice claim by disregarding the probability of an excess verdict, assigning one law firm to multiple defendants with conflicting interests, and failing to notify Stumacher of settlement offers. Stumacher allegedly expressed concern about an excess verdict and would have agreed to settle the underlying action had he been informed that the claimant would accept the policy limits. He asserted claims against MLMIC and against Marshall Dennehey and Ryan for legal malpractice.

PROCEDURAL HISTORY

The Supreme Court denied Medical Liability Mutual Insurance Company's CPLR 3211(a)(7) motion to dismiss the third cause of action and the demand for punitive damages. It also denied Marshall Dennehey Warner Coleman & Goggin, P.C. and Kevin Ryan's CPLR 3211(a)(1) and (7) motion to dismiss the complaint. The Appellate Division modified the order by dismissing the third cause of action against MLMIC and otherwise affirmed.

DISPOSITION

other

CASES CITED

- Leon v. Martinez, 84 NY2d 83, 87 (1994)
- Pergament v. Government Empls. Ins. Co. (GEICO), 225 AD3d 799, 801 (2d Dept 2024)
- Rocanova v. Equitable Life Assur. Socy. of U.S., 83 NY2d 603, 613 (1994)
- Weil, Gotshal & Manges, LLP v. Fashion Boutique of Short Hills, Inc., 10 AD3d 267, 271 (1st Dept 2004)

OPINION

Stumacher v. Medical Liab. Mut. Ins. Co. 2026 NY Slip Op 02734

PER CURIAM.

Stumacher v Medical Liab. Mut. Ins. Co. - 2026 NY Slip Op 02734 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Stumacher v Medical Liab. Mut. Ins. Co. 2026 NY Slip Op 02734 April 30, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. Richard Stumacher, Plaintiff-Respondent, v Medical Liability Mutual Insurance Company, et al., Defendants-Appellants. Decided and Entered: April 30, 2026 Index No. 157477/24|Appeal No. 6499|Case No. 2025-02664| Before: Kennedy, J.P., González Rosado, Chan, JJ. Rivkin Radler LLP, New York (Henry M. Mascia of counsel), for Medical Liability Mutual Insurance Company, appellant. Furman Kornfeld & Brennan LLP, New York (Aaron M. Barham of counsel), for Marshall Dennehey Warner Coleman & Goggin P.C. and Kevin Ryan, appellants. Blank & Star, PLLC, Brooklyn (Helene E. Blank of counsel), for respondent. [*1] Order, Supreme Court, New York County (Judith N. McMahon, J.), entered March 31, 2025, which denied defendant Medical Liability Mutual Insurance Company's motion pursuant to CPLR 3211(a)(7) to dismiss the third cause of action against it and any claim or demand for punitive damages, and the motion by defendants Marshall Dennehey Warner Coleman & Goggin, P.C. and Kevin Ryan pursuant to CPLR 3211(a)(1) and (7) to dismiss the complaint as against them in its entirety, unanimously modified, on the law, to the extent of

dismissing the third cause of action against MLMIC, and otherwise affirmed, without costs. The court properly denied MLMIC's motion to dismiss the demand for punitive damages, but should have dismissed the third cause of action for such relief. Plaintiff's complaint, which is to be afforded a liberal construction and the facts of which we are required to accept as true (see *Leon v Martinez* , 84 NY2d 83, 87 [1994]), alleges egregious conduct directed not only at him but more broadly at MLMIC's other insureds within the State of New York and nationwide. This alleged behavior went beyond a failure to settle the underlying malpractice claim within policy limits, but rather included, inter alia, a callous disregard of the probability of an excess verdict, the assignment by MLMIC of a single law firm to represent multiple defendants with conflicting interests, and the failure to notify plaintiff of settlement offers. Thus, while "no separate cause of action for punitive damages lies for pleading purposes . . . the complaint, . . . adequately alleges a demand for punitive damages" against MLMIC (*Pergament v Government Empls. Ins. Co. ["GEICO"]* , 225 AD3d 799, 801 [2d Dept 2024] [internal quotation marks omitted]; see *Rocanova v Equitable Life Assur. Socy. of U.S.* , 83 NY2d 603, 613 [1994]). The court properly denied defendants Marshall Dennehey and Ryan's motion to dismiss. The complaint adequately alleges that defendants breached their duty of care, and that such breach caused ascertainable damages. The allegations were not wholly speculative since there is evidence in the record that plaintiff expressed concern about the possibility of an excess verdict, and because plaintiff alleged he would have agreed to settle the underlying action had he been informed that the plaintiff in that action had offered to accept the policy limits. Further, the documentary evidence submitted by defendants does not conclusively establish a defense to the legal malpractice cause of action as a matter of law (see *Weil, Gotshal & Manges, LLP v Fashion Boutique of Short Hills, Inc.* , 10 AD3d 267, 271 [1st Dept 2004]). We have considered the remaining contentions and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: April 30, 2026 Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them. PER CURIAM.

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April 30, 2026

Appellate Division, First Department

Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

This decision is uncorrected and subject to revision before publication in the Official Reports.

Richard Stumacher, Plaintiff-Respondent,

v

Medical Liability Mutual Insurance Company, et al., Defendants-Appellants.

Decided and Entered: April 30, 2026

Index No. 157477/24|Appeal No. 6499|Case No. 2025-02664|

Before: Kennedy, J.P., González Rosado, Chan, JJ.

Rivkin Radler LLP, New York (Henry M. Mascia of counsel), for Medical Liability Mutual Insurance Company, appellant.

Furman Kornfeld & Brennan LLP, New York (Aaron M. Barham of counsel), for Marshall Dennehey Warner Coleman & Goggin P.C. and Kevin Ryan, appellants.

Blank & Star, PLLC, Brooklyn (Helene E. Blank of counsel), for respondent.

*1

Order, Supreme Court, New York County (Judith N. McMahon, J.), entered March 31, 2025, which denied defendant Medical Liability Mutual Insurance Company's motion pursuant to CPLR 3211(a)(7) to dismiss the third cause of action against it and any claim or demand for punitive damages, and the motion by defendants Marshall Dennehey Warner Coleman & Goggin, P.C. and Kevin Ryan pursuant to CPLR 3211(a)(1) and (7) to dismiss the complaint as against them in its entirety, unanimously modified, on the law, to the extent of dismissing the third cause of action against MLMIC, and otherwise affirmed, without costs.

The court properly denied MLMIC's motion to dismiss the demand for punitive damages, but should have dismissed the third cause of action for such relief. Plaintiff's complaint, which is to be afforded a liberal construction and the facts of which we are required to accept as true (*see Leon v Martinez*, 84 NY2d 83, 87 [1994]), alleges egregious conduct directed not only at him but more broadly at MLMIC's other insureds within the State of New York and nationwide. This alleged behavior went beyond a failure to settle the underlying malpractice claim within policy limits, but rather included, inter alia, a callous disregard of the probability of an excess verdict, the assignment by MLMIC of a single law firm to represent multiple defendants with conflicting interests, and the failure to notify plaintiff of settlement offers. Thus, while "no separate cause of action for punitive damages lies for pleading purposes . . . the complaint, . . . adequately alleges a demand for punitive damages" against MLMIC (*Pergament v Government Empls. Ins. Co. ["GEICO"]*, 225 AD3d 799, 801 [2d Dept 2024] [internal quotation marks omitted]; *see Rocanova v Equitable Life Assur. Socy. of U.S.*, 83 NY2d 603, 613 [1994]).

The court properly denied defendants Marshall Dennehey and Ryan's motion to dismiss. The complaint adequately alleges that defendants breached their duty of care, and that such breach caused ascertainable damages. The allegations were not wholly speculative since there is evidence in the record that plaintiff expressed concern about the possibility of an excess verdict, and because plaintiff alleged he would have agreed to settle the underlying action had he been informed that the plaintiff in that action had offered to

accept the policy limits. Further, the documentary evidence submitted by defendants does not conclusively establish a defense to the legal malpractice cause of action as a matter of law (*see Weil, Gotshal & Manges, LLP v Fashion Boutique of Short Hills, Inc.*, 10 AD3d 267, 271 [1st Dept 2004]). We have considered the remaining contentions and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: April 30, 2026

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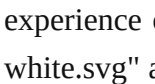
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