

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

Doe v. Grant Wilfley Casting, Inc.

Doe, 2026 NY Slip Op 01037 (Appellate Division of the Supreme Court of the State of New York Second Judicial Department 2026) · No. 2024-07544 · Decided February 25, 2026

SUMMARY

The Appellate Division, Second Department, affirmed dismissal under CPLR 3211(a)(7) of claims against Grant Wilfley Casting, Inc. and Paramount Pictures Corporation arising from an alleged sexual assault of an extra on a film set. The court held that the alleged assault was outside the scope of employment and that the complaint insufficiently alleged the defendants' knowledge of the assailant's propensity to support negligent hiring, retention, or supervision claims.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Paul Wooten, J.; Deborah A. Dowling, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	February 25, 2026
DOCKET	2024-07544
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from an order granting the defendants' separate motions under CPLR 3211(a)(7) to dismiss the complaint for failure to state a cause of action.
STANDARD OF REVIEW	On a motion to dismiss under CPLR 3211(a)(7), the complaint is afforded a liberal construction, its factual allegations are presumed true, and the plaintiff receives the benefit of every favorable inference; the court determines only whether the alleged facts fit within any cognizable legal theory.
PRECEDENTIAL VALUE	Published opinion

PARTIES

Jane Doe v. Grant Wilfley Casting, Inc., Paramount Pictures Corporation

TOPICS

motions to dismiss

vicarious liability

negligent supervision

negligence

civil procedure

PRACTICE AREAS

civil procedure

torts

employment law

QUESTIONS PRESENTED

1. Whether the complaint stated a cognizable claim against the corporate defendants under CPLR 3211(a)(7) based on vicarious liability for John Doe's alleged sexual assault.
2. Whether the complaint sufficiently alleged claims for negligent hiring, negligent retention, or negligent supervision by alleging that the defendants knew or should have known of John Doe's propensity for the alleged conduct.

HOLDINGS

1. The complaint did not state a cognizable respondeat superior claim because John Doe's alleged sexual assault was committed solely for personal motives, was not in furtherance of the employers' business, and was outside the scope of employment.
2. The complaint failed to state claims for negligent hiring, negligent retention, or negligent supervision because it did not sufficiently allege that the defendants knew or should have known of John Doe's propensity to commit the alleged wrongful acts.

KEY QUOTATIONS

"On a motion to dismiss pursuant to CPLR 3211(a)(7), the complaint is to be afforded a liberal construction, the facts alleged are presumed to be true, the plaintiff is afforded the benefit of every favorable inference, and the court is to determine only whether the facts as alleged fit within any cognizable legal theory"

"A sexual assault perpetrated by an employee is not in furtherance of an employer's business and is a clear departure from the scope of employment, having been committed for wholly personal motives"

"to establish a cause of action based on negligent hiring, negligent retention, or negligent supervision [of an employee], it must be shown that the employer knew or should have known of the employee's propensity for the conduct which caused the injury"

FACTUAL BACKGROUND

While working as an extra on the set of a film, the plaintiff allegedly was sexually assaulted by John Doe, another extra working on the film set. She sued Grant Wilfley Casting, Inc., Paramount Pictures Corporation, and John Doe, asserting negligence-related claims, including negligent hiring, retention, and supervision. The

complaint did not sufficiently allege that either corporate defendant knew or should have known of John Doe's propensity to commit the alleged wrongful acts.

PROCEDURAL HISTORY

The plaintiff commenced an action under the Adult Survivors Act against Grant Wilfley Casting, Inc., Paramount Pictures Corporation, and John Doe, alleging that she was sexually assaulted by John Doe while working as an extra on a film set. The Supreme Court, Suffolk County, granted the corporate defendants' separate motions to dismiss the claims against them. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Mohammad v. Rehman, 236 AD3d 892, 893
- Weinstein v. Levitin, 208 AD3d 531, 532
- Laine v. Empire HealthChoice Assur., Inc., 234 AD3d 833, 835
- Connaughton v. Chipotle Mexican Grill, Inc., 29 NY3d 137, 142
- Browne v. Lyft, Inc., 219 AD3d 445, 446-447
- N.X. v. Cabrini Med. Ctr., 97 NY2d 247, 251
- Riviello v. Waldron, 47 NY2d 297, 302, 304
- Judith M. v. Sisters of Charity Hosp., 93 NY2d 932, 933
- Montalvo v. Episcopal Health Servs., Inc., 172 AD3d 1357, 1359-1360
- Beauchamp v. City of New York, 3 AD3d 465, 466
- Stavitz v. City of New York, 98 AD2d 529, 531
- Fuller v. Family Servs. of Westchester, Inc., 209 AD3d 983, 984
- Kessler v. Yeshiva of Cent. Queens, 231 AD3d 1140, 1141-1142
- Abbas v. Richmond Univ. Med. Ctr., 229 AD3d 743, 744