

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

Navarrete v. First Steps Trans., Inc.

2025 NY Slip Op 06614 · No. 2022-03157; 2022-10624 · Decided November 26, 2025

SUMMARY

The New York Appellate Division, Second Department, reversed an amended order that struck the plaintiff’s post-deposition discovery demands and denied a motion to compel additional depositions. The court held that the requested discovery was material and necessary and that the plaintiff demonstrated both the inadequacy of the previously produced witness and a substantial likelihood that additional witnesses possessed relevant information.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; William G. Ford, J.; Helen Voutsinas, J.; Carl J. Landicino, J.
JURISDICTION	New York Appellate Division, Second Department
DECIDED	November 26, 2025
DOCKET	2022-03157; 2022-10624
DISPOSITION	other
PROCEDURAL POSTURE	The plaintiff appealed from an order and an amended order concerning post-deposition discovery demands and a request to compel additional depositions in a personal-injury action.
STANDARD OF REVIEW	Discovery supervision and the imposition of reasonable disclosure terms are ordinarily reviewed for abuse of discretion, but the Appellate Division may substitute its own discretion for that of the trial court even absent an abuse of discretion.
PRECEDENTIAL VALUE	Published
PARTIES	Maria Magdalena Navarrete, as parent and natural guardian of the infant K.M.N. v. First Steps Trans., Inc., Department of Education of the City of New York, et al.

TOPICS

discovery dispute

civil procedure

appellate procedure

personal injury

PRACTICE AREAS

civil procedure

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QUESTIONS PRESENTED

1. Whether the plaintiff's post-deposition discovery demands were material and necessary under CPLR 3101(a) and therefore should not have been stricken under CPLR 3103.
2. Whether the plaintiff established that additional depositions were warranted because the previously designated Department of Education witness had insufficient knowledge or was otherwise inadequate and the additional witnesses likely possessed material and necessary information.
3. Whether the appeal from the original order should be dismissed because the original order was superseded by the amended order.

HOLDINGS

1. The post-deposition discovery demands were material and necessary to the prosecution of the action, and the protective order striking them was improperly granted.
2. The plaintiff was entitled to compel the depositions of additional witnesses because she demonstrated that the previously deposed representative had insufficient knowledge or was otherwise inadequate and that the additional witnesses were substantially likely to possess material and necessary information.
3. The appeal from the original order was dismissed because the original order was superseded by the amended order.

KEY QUOTATIONS

"For purposes of depositions, a corporate entity has the right to designate, in the first instance, the representative who shall be examined" ([*2])

"In order to show that an additional deposition is warranted, the movant must demonstrate that (1) the representatives already deposed had insufficient knowledge, or were otherwise inadequate, and (2) there is a substantial likelihood that the persons sought for depositions possess information which is material and necessary to the prosecution of the case" ([*2])

FACTUAL BACKGROUND

The plaintiff alleged that an infant with an individualized education plan limiting school-bus travel to 60 minutes was improperly left on a school bus for more than three and one-half hours, causing emotional and physical injuries. The bus was operated by First Steps Trans., Inc., under contract with the New York City Department of Education. After a Department of Education deposition, the plaintiff served additional discovery demands and sought to depose the infant's teacher and other witnesses.

PROCEDURAL HISTORY

The Supreme Court, Queens County, effectively granted the defendants' CPLR 3103 motion for a protective order striking the plaintiff's post-deposition discovery demands and denied the plaintiff's CPLR 3124 cross-motion to compel additional depositions. The Appellate Division dismissed the appeal from the original order because it was superseded by the amended order, and reversed the amended order insofar as appealed from.

DISPOSITION

other

REMAND INSTRUCTIONS

The amended order was reversed insofar as appealed from; the protective-order branch of the defendants' motion was denied, the plaintiff's cross-motion to compel additional depositions was granted, and one bill of costs was awarded to the plaintiff. The appeal from the original order was dismissed.

CASES CITED

- Forman v. Henkin, 30 N.Y.3d 656, 661
- Allen v. Crowell-Collier Publ. Co., 21 N.Y.2d 403, 406
- Smith-Percival v. MTA Bus Co., 232 A.D.3d 928, 929-930
- C.B. v. New York City Tr. Auth., 219 A.D.3d 1397, 1398-1399
- Rrengo v. New York City Tr. Auth., 204 A.D.3d 1049, 1050
- Whitnum v. Plastic & Reconstructive Surgery, P.C., 142 A.D.3d 495, 496
- Holloway v. Orthodox Church in Am., 232 A.D.3d 773, 774
- Pulgarin v. Richmond, 219 A.D.3d 1356, 1358
- Harris v. Christian Church of Canarsie, Inc., 147 A.D.3d 818, 818
- Giordano v. New Rochelle Mun. Hous. Auth., 84 A.D.3d 729, 731-732
- Teodoro v. C.W. Brown, Inc., 200 A.D.3d 997, 998
- Nunez v. Chase Manhattan Bank, 71 A.D.3d 967, 968
- Cea v. Zimmerman, 142 A.D.3d 941, 944