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

Hyde v. Okolie

Hyde, 2026 NY Slip Op 02334 (Appellate Division of the Supreme Court of the State of New York First Department 2026) · No. Index No. 152489/16; Appeal No. 6388; Case No. 2025-01579 · Decided April 16, 2026

SUMMARY

The Appellate Division, First Department, affirmed an order denying summary judgment to Phyllis Weitzman and Bow Faith Co., LLC, which sought dismissal of claims arising from alleged fraud and misuse of funds belonging to William Boise. The court held that factual issues remained concerning aiding and abetting fraud, actual fraud, undue influence, promissory estoppel, unjust enrichment, joint and several liability, and constructive trust. The court also stated that Bow Faith's assets might be reached if plaintiff proves at trial that the entity was used to perpetrate fraud.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Moulton, J.P.; Scarpulla, J.; Shulman, J.; Rodriguez, J.; Michael, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	April 16, 2026
DOCKET	Index No. 152489/16; Appeal No. 6388; Case No. 2025-01579
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants Phyllis Weitzman and Bow Faith Co., LLC appealed from an order of Supreme Court, New York County, denying their motion for summary judgment dismissing several fraud, undue influence, promissory estoppel, unjust enrichment, joint-and-several-liability, and constructive-trust claims.
STANDARD OF REVIEW	On a motion for summary judgment, the movants bear the burden of establishing entitlement to judgment as a matter of law; summary judgment must be denied where the evidence presents triable issues of fact concerning the claims.
PRECEDENTIAL VALUE	published

PARTIES	Phyllis Weitzman, also known as Phyllis Okolie, Bow Faith Co., LLC v. Maurice Hyde, administrator of the Estate of William Boise

TOPICS

summary judgment · fraud · constructive trust · remedies · appellate procedure

PRACTICE AREAS

civil procedure · fraud · trusts · remedies · real estate

QUESTIONS PRESENTED

1. Whether defendants established entitlement to summary judgment dismissing the aiding-and-abetting constructive-fraud, aiding-and-abetting actual-fraud, and actual-fraud claims.
2. Whether defendants established entitlement to summary judgment dismissing the undue-influence claim arising from the Maspeth transaction.
3. Whether defendants established entitlement to summary judgment dismissing the promissory-estoppel claim.
4. Whether defendants established entitlement to summary judgment dismissing the unjust-enrichment claim.
5. Whether the joint-and-several-liability and constructive-trust causes of action were properly sustained.
6. Whether Bow Faith's assets could potentially be reached if plaintiff proves at trial that Weitzman used the entity to perpetrate fraud.

HOLDINGS

1. Defendants failed to establish entitlement to summary judgment dismissing the claims for aiding and abetting constructive fraud, aiding and abetting actual fraud, and actual fraud.
2. Defendants failed to establish entitlement to summary judgment dismissing the undue-influence claim.
3. Defendants were not entitled to summary judgment dismissing the promissory-estoppel claim.
4. Defendants did not establish entitlement to summary judgment dismissing the unjust-enrichment claim.
5. Co-conspirators found liable for aiding-and-abetting fraud may be held jointly and severally liable for damages; therefore, the joint-and-several-liability cause of action was properly sustained.
6. A constructive trust was an available remedy under the circumstances because Boise and Weitzman had a confidential relationship arising from their purported joint venture.
7. If plaintiff proves at trial that Weitzman used Bow Faith to perpetrate fraud on Boise, plaintiff may be entitled to reach the entity's assets.

KEY QUOTATIONS

> *"Co-conspirators found liable for aiding-and-abetting fraud may be held jointly and severally liable for damages"* ([*3])

> *"Moreover, under the circumstances here, a constructive trust is available as a remedy because Boise and Weitzman were in a confidential relationship by virtue of their joint venture"* ([*3])

FACTUAL BACKGROUND

Maurice Hyde, administrator of William Boise's estate, alleged that between 2011 and 2014 Weitzman and Okolie misappropriated more than one million dollars from Boise, who suffered from dementia. Okolie obtained authority over Boise's financial accounts and transferred substantial sums to Weitzman. Weitzman received more than $300,000 of Boise's funds for a purported joint investment in a Maspeth property, acquired the property in her own name, and later transferred it to Bow Faith Co., LLC. Medical records and expert testimony indicated that Boise was totally mentally and physically incapacitated before signing the purported partnership agreement, and factual disputes remained regarding whether Weitzman returned Boise's money.

PROCEDURAL HISTORY

The administrator of William Boise's estate sued, alleging that Weitzman and Cyril Okolie misappropriated more than one million dollars from Boise while he was suffering from dementia. Supreme Court denied Weitzman and Bow Faith's motion for summary judgment on eight causes of action. The Appellate Division, First Department, unanimously affirmed that order with costs.

DISPOSITION

affirmed

CASES CITED

- Eurycleia Partners, LP v Seward & Kissel, LLP, 12 NY3d 553, 559 [2009]
- Oster v Kirschner, 77 AD3d 51, 55-56 [1st Dept 2010]
- Matter of Kotick v Shvachko, 130 AD3d 472, 473 [1st Dept 2015]
- Rocchio v Biondi, 40 AD3d 615, 616 [2d Dept 2007]
- Sepulveda v Aviles, 308 AD2d 1, 7 [1st Dept 2003]
- Condor Funding, LLC v 176 Broadway Owners Corp., 147 AD3d 409, 411 [1st Dept 2017]
- Agress v Clarkstown Cent. School Dist., 69 AD3d 769, 771 [2d Dept 2010]
- Mandarin Trading Ltd. v Wildenstein, 16 NY3d 173, 182 [2011]
- Visual Arts Found., Inc. v Egnasko, 91 AD3d 578, 579 [1st Dept 2012]
- Bankers Sec. Life Ins. Socy. v Shakerdge, 49 NY2d 939, 940 [1980]
- Sharp v Kosmalski, 40 NY2d 119, 121 [1976]
- Matter of Morris v New York State Dept. of Taxation & Fin., 82 NY2d 135, 140-141 [1993]

INSTRUCTIONS FOR AN AI ASSISTANT