

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

Hodges v. 37-11 30th St., LLC

Hodges, 2026 NY Slip Op 03428 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2025-02023 · Decided June 3, 2026

SUMMARY

The Appellate Division, Second Department, reversed an order denying the defendants' motion for summary judgment because the motion papers lacked a word count certification. The court held that the omission should have been overlooked because no substantial right was prejudiced and remitted the matter for a determination on the merits.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Paul Wooten; Lourdes M. Ventura; Lisa S. Ottley
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	June 3, 2026
DOCKET	2025-02023
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants and third-party plaintiffs appealed from an order denying their motion for summary judgment because they failed to include a word count certification with their motion papers.
STANDARD OF REVIEW	The Appellate Division reviewed the denial of the summary-judgment motion for error of law and abuse of discretion concerning the failure to submit a word count certification.
PRECEDENTIAL VALUE	Published
PARTIES	37-11 30th Street, LLC, 37-11 30th Street Holdings, LLC, Slate Property Group, LLC, SD Builders and Construction, LLC v. Pierre Hodges

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QUESTIONS PRESENTED

1. Whether the Supreme Court should have denied the appellants' summary-judgment motion solely because the motion papers lacked a word count certification.
2. Whether the matter should be remitted for the Supreme Court to determine the merits of the summary-judgment motion after the procedural defect is overlooked.

HOLDINGS

1. A court should overlook the appellants' failure to submit a word count certification with their summary-judgment motion where no substantial right of any party was prejudiced.
2. Because the Supreme Court did not consider the merits, the matter must be remitted to the Supreme Court, Kings County, for a new determination on the merits.

KEY QUOTATIONS

*“The Supreme Court should have overlooked the appellants' failure to submit a word count certification with their motion for summary judgment, as no substantial right of any party was prejudiced” (*2)*

*“In light of our determination, we need not consider the remaining contentions addressing the merits of the motion, and take no position regarding the ultimate disposition of the motion.” (*2)*

FACTUAL BACKGROUND

Hodges allegedly sustained personal injuries at a construction site owned by 37-11 30th Street, LLC, 37-11 30th Street Holdings, LLC, and Slate Property Group, LLC. SD Builders and Construction, LLC and the other appellants served as general contractor, while PPEE Construction, Inc. was Hodges's employer. The appellants sought summary judgment on the amended complaint and on third-party contractual defense, indemnification, breach-of-contract, and insurance-procurement claims.

PROCEDURAL HISTORY

Pierre Hodges commenced a personal-injury action arising from an accident at a construction site. The appellants, who served as general contractor, brought a third-party action against Hodges's employer, PPEE Construction, Inc., and moved for summary judgment dismissing the amended complaint and on third-party claims for contractual defense and indemnification, breach of contract, and failure to procure insurance. The Supreme Court, Kings County, denied the motion solely for failure to include a word count certification, and the Appellate Division reversed and remitted for a new determination on the merits.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter is remitted to the Supreme Court, Kings County, for a new determination on the merits of the appellants' motion for summary judgment dismissing the amended complaint and on their third-party causes of action for contractual defense and indemnification, breach of contract, and failure to procure insurance.

CASES CITED

- Bonas v. RRR & N Corp., 240 AD3d 851, 852
- Taveras v. Incorporated Vil. of Freeport, 225 AD3d 822, 823
- Anuchina v. Marine Transp. Logistics, Inc., 216 AD3d 1126, 1127
- Young v. City of New York, 164 AD3d 711, 713

OPINION

Hodges v. 37-11 30th St., LLC 2026 NY Slip Op 03428

PER CURIAM.

Hodges v 37-11 30th St., LLC - 2026 NY Slip Op 03428 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 Hodges v 37-11 30th St., LLC 2026 NY Slip Op 03428 June 3, 2026 Appellate Division, Second 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. Pierre Hodges, plaintiff-respondent, v 37-11 30th Street, LLC, et al., defendants third-party plaintiffs-appellants; PPEE Construction, Inc., third-party defendant-respondent. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 3, 2026 2025-02023, (Index No. 504660/21) Angela G. Iannacci, J.P. Paul Wooten Lourdes M. Ventura Lisa S. Ottley, JJ. Coffey Modica LLP (The Law Offices of Seth M. Weinberg, PLLC, Hauppauge, NY, of counsel), for defendants third-party plaintiffs-appellants. Law Offices of Michael S. Lamonsoff, PLLC (Pollack, Pollack, Isaac & DeCicco, LLP, New York, NY [Brian J. Isaac and Paul H. Seidenstock], of counsel), for plaintiff-respondent. Hall Booth Smith, P.C., Garden City, NY (James M. Murphy and Louis Valvo of counsel), for third-party defendant-respondent. [*1] DECISION & ORDER In an action to recover damages for personal injuries, the defendants third-party plaintiffs appeal from an order of the Supreme Court, Kings County (Joy F. Campanelli, J.), dated January 15, 2025. The order denied the defendants third-party plaintiffs' motion for summary judgment dismissing the amended complaint and on their third-party causes of action for contractual defense and indemnification, breach of contract, and failure to procure insurance. ORDERED that the order is reversed, on the law and in the exercise of discretion, with one bill of costs, and the matter is remitted to the Supreme Court,

Kings County, for a new determination on the merits of the defendants third-party plaintiffs' motion for summary judgment dismissing the amended complaint and on their third-party causes of action for contractual defense and indemnification, breach of contract, and failure to procure insurance. The plaintiff commenced this action to recover damages for personal injuries he allegedly sustained at a construction site owned by 37-11 30th Street, LLC, 37-11 30th Street Holdings, LLC, and Slate Property Group, LLC, at which SD Builders and Construction, LLC (hereinafter collectively the appellants), served as the general contractor. Thereafter, the appellants commenced a third-party action against PPEE Construction, Inc. (hereinafter PPEE), the plaintiff's employer, alleging certain third-party causes of action. Subsequently, the appellants moved for summary judgment dismissing the amended complaint and on their third-party causes of action for contractual defense and indemnification, breach of contract, and failure to procure insurance. The plaintiff and PPEE separately opposed the motion. By order dated January 15, 2025, the Supreme Court denied the motion on the ground that the appellants failed to include a word count certification with the motion papers. This appeal [*2] ensued. The Supreme Court should have overlooked the appellants' failure to submit a word count certification with their motion for summary judgment, as no substantial right of any party was prejudiced (see *Bonas v RRR & N Corp.* , 240 AD3d 851 , 852; *Taveras v Incorporated Vil. of Freeport* , 225 AD3d 822 , 823; *Anuchina v Marine Transp. Logistics, Inc.* , 216 AD3d 1126, 1127 ; *Young v City of New York* , 164 AD3d 711 , 713). Accordingly, we reverse. Since the Supreme Court did not consider the merits of the motion, we remit the matter to the Supreme Court, Kings County, for a new determination on the merits of the motion. In light of our determination, we need not consider the remaining contentions addressing the merits of the motion, and take no position regarding the ultimate disposition of the motion. IANNACCI, J.P., WOOTEN, VENTURA and OTTLEY, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court 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.