

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

N & P Engineering, Architecture & Land Surveying, PLLC v. Ridge Fire Department

2026 NY Slip Op 00906 · No. 2024-01406 · Decided February 18, 2026

SUMMARY

The Appellate Division, Second Department, affirmed dismissal of an engineering firm's breach-of-contract action against a fire department. The court held that the plaintiff failed to comply with Town Law § 180 because it named the fire department rather than the fire district in its notice of claim and action, and the fire department was not amenable to suit. The court also affirmed denial of the plaintiff's motion to amend the caption to add the fire district.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Barry E. Warhit, J.; Helen Voutsinas, J.; Lillian Wan, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	February 18, 2026
DOCKET	2024-01406
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from an order granting the defendant's CPLR 3211(a) motion to dismiss the complaint and denying the plaintiff's CPLR 305(c) cross-motion to amend the caption to add Ridge Fire District as a defendant.
STANDARD OF REVIEW	The Appellate Division reviewed the CPLR 3211(a) dismissal and the denial of the CPLR 305(c) amendment motion for error, applying the statutory requirements governing actions against fire districts.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	N & P Engineering, Architecture & Land Surveying, PLLC v. Ridge Fire Department

TOPICS

motions to dismiss

motion to amend

breach of contract

municipal law

statutory interpretation

PRACTICE AREAS

civil procedure

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appellate procedure

QUESTIONS PRESENTED

1. Whether the plaintiff's failure to file a proper notice of claim against Ridge Fire District barred the contract action under Town Law § 180.
2. Whether Ridge Fire Department, as a department of the municipal entity, was amenable to suit.
3. Whether the plaintiff could amend the caption under CPLR 305(c) to add Ridge Fire District as a defendant after commencing the action against Ridge Fire Department.

HOLDINGS

1. Proper filing of a written verified claim with the fire district secretary within the statutory period is a condition precedent to maintaining an action against a fire district, and courts may not excuse noncompliance with Town Law § 180.
2. A fire department that is merely a department of the municipal fire district is not amenable to suit; the action was therefore improperly brought against Ridge Fire Department rather than Ridge Fire District.
3. The Supreme Court properly denied the plaintiff's cross-motion under CPLR 305(c) to amend the caption to add Ridge Fire District as a defendant.

KEY QUOTATIONS

*“The proper filing of the notice of claim is a condition precedent to the commencement of an action against a fire district” ([*2])*

*“courts have no authority to disregard lack of compliance with such a provision” ([*2])*

FACTUAL BACKGROUND

In September 2018, the plaintiff entered into a contract with Ridge Fire District to provide engineering and other services for construction of a firehouse. In March 2023, after negotiations over the amount due broke down, the plaintiff filed a notice of claim naming Ridge Fire Department rather than Ridge Fire District. The plaintiff then commenced a breach-of-contract action against the Fire Department, an entity the court determined was not amenable to suit.

PROCEDURAL HISTORY

The plaintiff contracted with Ridge Fire District in September 2018 to provide engineering and related services. After negotiations concerning payment broke down, the plaintiff filed a notice of claim naming Ridge Fire Department and then sued the Fire Department for breach of contract. The Supreme Court, Suffolk County,

dismissed the complaint for failure to comply with Town Law § 180 and denied leave to amend the caption; the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- JNS Heating Serv., Inc. v. Stony Brook Fire Dist., 216 AD3d 627, 628
- Matter of Elmont Fire Dist. v. Lapeka Constr. Corp., 232 AD2d 636, 637
- Dannemann v. Town of E. Hampton Dept. of Land Acquisition & Mgt., 221 AD3d 960, 962
- McCulloch v. Town of Milan, 74 AD3d 1034, 1035
- Brown v. City of New York, 192 AD3d 963, 965
- Bartnicki v. Centereach Fire Dept., 222 AD2d 637

OPINION

PER CURIAM.

N & P Engg., Architecture & Land Surveying, PLLC v Ridge Fire Dept. (2026 NY Slip Op 00906) N & P Engg., Architecture & Land Surveying, PLLC v Ridge Fire Dept. 2026 NY Slip Op 00906 Decided on February 18, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on February 18, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department BETSY BARROS, J.P. BARRY E. WARHIT HELEN VOUTSINAS LILLIAN WAN, JJ. 2024-01406 (Index No. 612742/23) [*1]N & P Engineering, Architecture & Land Surveying, PLLC, appellant, v Ridge Fire Department, respondent. Kosakoff & Cataldo LLP, Melville, NY (Michael Stanton and Jessica Guzzo of counsel), for appellant.

Kaufman Dolowich, LLP, Woodbury, NY (Andrew L. Richards and Seth J. Meyer of counsel), for respondent. DECISION & ORDER In an action, inter alia, to recover damages for breach of contract, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Maureen T. Liccione, J.), dated December 14, 2023.

The order granted that branch of the defendant's motion which was pursuant to CPLR 3211(a) to dismiss the complaint and denied the plaintiff's cross-motion pursuant to CPLR 305(c) for leave to amend the caption to add Ridge Fire District as a defendant. ORDERED that the order is affirmed, with costs.

In September 2018, the plaintiff entered into a contract with Ridge Fire District (hereinafter the Fire District) to provide engineering and other services for the construction of a firehouse. In March 2023, following a breakdown in negotiations regarding the amount due under the contract, the plaintiff filed a notice of claim naming Ridge Fire Department (hereinafter the Fire Department) as the respondent.

In May 2023, the plaintiff commenced this action, inter alia, to recover damages for breach of contract against the Fire Department. The Fire Department moved, among other things, pursuant to CPLR 3211(a) to dismiss the complaint based on the plaintiff's failure to comply with Town Law § 180.

The plaintiff cross-moved pursuant to CPLR 305(c) to amend the caption to add the Fire District as a defendant. In an order dated December 14, 2023, the Supreme Court granted that branch of the Fire Department's motion which was pursuant to CPLR 3211(a) to dismiss the complaint and denied the plaintiff's cross-motion.

The plaintiff appeals. Town Law § 180 states that "[n]o action shall be maintained against a fire district upon or arising out of a contract entered into by the fire district, unless the same shall be commenced within eighteen months after the cause of action thereof shall have accrued, nor unless a written verified claim shall have been filed with the fire district secretary within six months after the cause of action shall have accrued, but no such action shall be brought upon any such claim until forty days have elapsed after the filing of the claim in the office of the fire district secretary."

The proper filing [*2]of the notice of claim is a condition precedent to the commencement of an action against a fire district (see JNS Heating Serv., Inc. v Stony Brook Fire Dist., 216 AD3d 627, 628). Contrary to the plaintiff's contention, courts have no authority to disregard lack of compliance with such a provision (see id.; Matter of Elmont Fire Dist. v Lapeka Constr.

Corp., 232 AD2d 636, 637). Much like its counterpart provision pertaining directly to towns and town governments, Town Law § 65(3), Town Law § 180 "contains no provision allowing the court to excuse noncompliance with its requirements" (Dannemann v Town of E. Hampton Dept. of Land Acquisition & Mgt., 221 AD3d 960, 962, quoting McCulloch v Town of Milan, 74 AD3d 1034, 1035).

Here, in improperly bringing this action against the Fire Department and not the Fire District, the plaintiff commenced an action against a department of the municipal entity that is not amenable to being sued (see Brown v City of New York, 192 AD3d 963, 965; Bartnicki v Centereach Fire Dept., 222 AD2d 637).

The plaintiff's remaining contention is without merit. Accordingly, the Supreme Court properly granted that branch of the Fire Department's motion which was pursuant to CPLR 3211(a) to

dismiss the complaint and denied the plaintiff's cross-motion pursuant to CPLR 305(c) to amend the caption to add the Fire District as a defendant.

The Fire Department's remaining contentions need not be reached in light of our determination. BARROS, J.P., WARHIT, VOUTSINAS and WAN, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court