

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

Brownyard v County of Suffolk

Brownyard v. County of Suffolk, 2025 NY Slip Op 07274 (N.Y. Ct. App. 2025) · No. 2022-08939; 2023-02125 ·
Decided December 24, 2025

SUMMARY

The Appellate Division, Second Department, reversed an order granting the plaintiffs' motion for a protective order and limiting discovery to certain original plaintiffs. The court held that, because individual standing was a threshold issue and each plaintiff had to establish personal monetary damages, the defendants demonstrated that the requested discovery was material and necessary.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Valerie Brathwaite Nelson, J.; Helen Voutsinas, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 24, 2025
DOCKET	2022-08939; 2023-02125
DISPOSITION	reversed
PROCEDURAL POSTURE	The defendants appealed from an order granting the plaintiffs' motion for a protective order striking specified discovery requests and limiting discovery to three original plaintiffs, and from an order that, upon reargument, adhered to that determination.
STANDARD OF REVIEW	The Appellate Division reviewed the Supreme Court's supervision of discovery and issuance of a protective order for an improvident exercise of discretion, while also reviewing the applicable discovery rules as matters of law.
PRECEDENTIAL VALUE	Published opinion
PARTIES	County of Suffolk, et al. v. Bruce Brownyard, et al.

TOPICS

discovery dispute

standing

civil procedure

appellate procedure

standard of review

PRACTICE AREAS

civil procedure

discovery

standing

municipal law

tax litigation

QUESTIONS PRESENTED

1. Whether the Supreme Court improvidently exercised its discretion by striking the defendants' discovery requests and limiting discovery to the three original plaintiffs.
2. Whether the requested discovery was material and necessary to the defense, including the defendants' standing defense.
3. Whether the appeal from the order entered upon reargument was academic after reversal of the underlying order.

HOLDINGS

1. The Supreme Court improvidently exercised its discretion by striking requests for production numbers 2, 3, 4, 6, 7, 8, 10, 11, 12, and 13 and limiting discovery to the original plaintiffs; the protective-order motion therefore had to be denied.
2. The appeal from the February 6, 2023 order was dismissed as academic because reversal of the October 24, 2022 order eliminated the operative underlying determination.

KEY QUOTATIONS

*“Pursuant to CPLR 3101(a), '[t]here shall be full disclosure of all matter material and necessary in the prosecution or defense of an action'” (at *2)*

*“In determining whether to issue a protective order, the court must balance the competing interests of the parties and the truth-finding goal of the discovery process” (at *2)*

*“Inasmuch as individual standing is a threshold requirement to maintain an action, each plaintiff must show that he or she personally suffered monetary damages as a result of the challenged practices” (at *2)*

FACTUAL BACKGROUND

The plaintiffs alleged that the defendants exceeded their authority by retaining certain real property tax revenue. The third amended complaint added approximately 400 alleged aggrieved taxpayers as plaintiffs, and the defendants asserted lack of standing as an affirmative defense. The defendants sought discovery from each plaintiff concerning matters material to whether the individual plaintiffs personally suffered monetary damages from the challenged practices.

PROCEDURAL HISTORY

The plaintiffs commenced an action for declaratory and injunctive relief concerning the defendants' retention of certain real property tax revenue. After approximately 400 additional alleged aggrieved taxpayers were added as plaintiffs, the defendants served discovery requests, interrogatories, and deposition notices on each plaintiff. The

plaintiffs moved for a protective order, which the Supreme Court granted in part by striking discovery requests and limiting discovery to the original plaintiffs. The Supreme Court later adhered to that determination upon reargument. The Appellate Division reversed the October 24, 2022 order, vacated the corresponding portion of the February 6, 2023 order, denied the protective-order motion, and dismissed the appeal from the February 6 order as academic.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The plaintiffs' motion for a protective order was denied. The portion of the February 6, 2023 order adhering to the protective-order determination was vacated, and the appeal from that order was dismissed as academic. One bill of costs was awarded to the defendants.

CASES CITED

- Smith-Percival v MTA Bus Co., 232 AD3d 928, 929
- Oleynik v Rozenfeld, 230 AD3d 1152, 1154
- Rawlins v St. Joseph's Hosp. Health Ctr., 108 AD3d 1191, 1193
- Alfaro v Schwartz, 233 AD2d 281, 282
- 101CO, LLC v Sand Land Corp., 189 AD3d 942, 944
- Kopelevich & Feldsherova, P.C. v Geller Law Group, P.C., 222 AD3d 956, 958
- Murray v Empire Ins. Co., 175 AD2d 693, 695
- Hamed v Alas Realty Corp., 209 AD3d 628, 629