

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

Mavruk v. Melendez

Mavruk, 2025 NY Slip Op 06853 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2025) · No. 2023-11797 · Decided December 10, 2025

SUMMARY

The Appellate Division, Second Department, reversed an order denying the plaintiff leave under CPLR 305(c) to amend the caption and substitute All State Fuel Oil Corp., doing business as Jennings & Hartwell Fuel Oil, for Jennings & Hartwell Fuel Oil Corp. The court held that the correct defendant was timely served at its service address, the pleadings fairly apprised it of the intended claim, and there was no demonstrated prejudice from the amendment.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Lara J. Genovesi, J.; Deborah A. Dowling, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	December 10, 2025
DOCKET	2023-11797
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff appealed from an order of the Supreme Court, Queens County, denying leave under CPLR 305(c) to amend the caption by substituting All State Fuel Oil Corp., doing business as Jennings & Hartwell Fuel Oil, for Jennings & Hartwell Fuel Oil Corp.
STANDARD OF REVIEW	Abuse of discretion, reviewed under CPLR 305(c); the Appellate Division determined whether the Supreme Court improvidently exercised its discretion under the law and applicable circumstances.
PRECEDENTIAL VALUE	published
PARTIES	Mahmut Mavruk v. Jennings & Hartwell Fuel Oil Corp.

TOPICS

motion to amend

service of process

pleadings

personal injury

appellate procedure

PRACTICE AREAS

civil procedure

personal injury

QUESTIONS PRESENTED

1. Whether CPLR 305(c) permitted amendment of the caption to substitute All State Fuel Oil Corp., doing business as Jennings & Hartwell Fuel Oil, for the misnamed Jennings & Hartwell Fuel Oil Corp.
2. Whether the correct defendant was served and would suffer prejudice from the proposed amendment.

HOLDINGS

1. Leave to amend the caption was warranted because All State Fuel Oil Corp. was the correct defendant, was timely served at its address for service of process, and was not prejudiced by the amendment.

KEY QUOTATIONS

“Relief pursuant to CPLR 305(c) may be granted only where there is evidence that the correct defendant was served, albeit misnamed in the original process, and the correct defendant would not be prejudiced by the granting of the amendment” ([*1])

“The allegations contained in the complaint, including that Melendez was operating the van in the scope of his employment at the time of the accident, fairly apprised the parties that All State Fuel Oil Corp. was the party the plaintiff intended to name, and there is no indication that All State Fuel Oil Corp. would be prejudiced by allowing the amendment” ([*1])

FACTUAL BACKGROUND

On April 1, 2017, a van operated by Daniel Melendez struck the rear of a vehicle operated by Mahmut Mavruk. The van was registered to Sarah Bivens and displayed Jennings & Hartwell Fuel Oil's name and business address, although Jennings & Hartwell had closed around 2009. Discovery showed that Bivens was the president and chief executive officer of All State Fuel Oil Corp., which operated under the assumed name Jennings & Hartwell Fuel Oil, maintained the same relevant address, and had been served there; deposition testimony also showed that Melendez operated the van with Bivens's permission.

PROCEDURAL HISTORY

Mahmut Mavruk commenced a personal-injury action against Daniel Melendez, Sarah Bivens, and Jennings & Hartwell Fuel Oil Corp. After discovery revealed that All State Fuel Oil Corp. operated under the Jennings & Hartwell assumed name and had been served at the relevant address, Mavruk moved to amend the caption under CPLR 305(c). The Supreme Court denied that branch of the motion, and the Appellate Division reversed insofar as appealed from and granted the requested amendment.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The order was reversed insofar as appealed from, and the branch of plaintiff's motion seeking leave under CPLR 305(c) to amend the caption was granted. No further remand instruction was stated.

CASES CITED

- Jordan-Covert v. Petroleum Kings, LLC, 199 AD3d 666, 668
- Brewster v. North Shore/LIJ Huntington Hosp., 221 AD3d 648, 649
- Nossov v. Hunter Mtn., 185 AD3d 948, 948
- Matter of Hyundai Capital Am., Inc. v. Marina, 233 AD3d 1318, 1320
- Holster v. Ross, 45 AD3d 640, 642
- Simpson v. Kenston Warehousing Corp., 154 AD2d 526
- Fink v. Regent Hotel, 234 AD2d 39, 41
- Creative Cabinet Corp. of Am. v. Future Visions Computer Store, 140 AD2d 483, 485