

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

Alvarez v. 471 W. 144 LLC

2025 N.Y. Slip Op. 06543 (Supreme Court of the State of New York Appellate Division First Department 2025) ·
No. Index No. 150502/16; Appeal No. 5234; Case No. 2025-02536 · Decided November 25, 2025

SUMMARY

The Appellate Division, First Department affirmed an order denying defendants’ motion to vacate an order permitting the plaintiff to conduct further depositions concerning defendants’ assets and the assets of the individual owners. The court held that the trial court acted within its broad discretion to permit material and necessary post-note-of-issue discovery where defendants had not adequately complied with prior discovery orders.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; Kennedy, J.; González, J.; Higgitt, J.; Michael, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	November 25, 2025
DOCKET	Index No. 150502/16; Appeal No. 5234; Case No. 2025-02536
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order of Supreme Court, New York County, denying their motion to vacate a prior order that sua sponte permitted plaintiff to conduct a further deposition concerning defendants' assets and the assets of the individual owners.
STANDARD OF REVIEW	Abuse of discretion; trial courts have broad discretion to regulate discovery and determine whether requested information is material and necessary.
PRECEDENTIAL VALUE	Published opinion
PARTIES	471 West 144 LLC, et al. v. Juan Alvarez

TOPICS

- discovery dispute
- civil procedure
- appellate procedure
- corporate law
- commercial litigation

PRACTICE AREAS

civil procedure

appellate procedure

corporate law

asset protection

commercial litigation

QUESTIONS PRESENTED

1. Whether Supreme Court acted within its discretion in allowing plaintiff to conduct a further deposition concerning defendants' assets and the assets of the individual owners.
2. Whether post-note-of-issue discovery could be permitted without vacating the note of issue where the requested discovery was material and necessary and defendants could not establish prejudice.

HOLDINGS

1. Supreme Court acted within its broad discretion to regulate discovery by finding that a further deposition concerning defendants' assets and the assets of the individual owners was material and necessary.
2. A court may allow post-note-of-issue discovery without vacating the note of issue when the discovery is warranted and permitting it will not prejudice either party; defendants could not establish prejudice because they had failed to comply adequately with prior discovery orders.

KEY QUOTATIONS

*“The CPLR vests trial courts with broad discretion to regulate discovery” (*1)*

*“A court, in its discretion, may allow post-note of issue discovery without vacating the note of issue as long as prejudice to either party would not result” (*1)*

FACTUAL BACKGROUND

Plaintiff sought discovery concerning defendants' corporate structure, members, operating agreements, bank accounts, mortgages, the formation of 471 West 144 LLC, and the disposition of proceeds from a property sale. The record contained facts suggesting that defendants may have diverted corporate funds to frustrate collection of a potential judgment. Defendants had also failed to adequately comply with prior discovery orders, despite having filed a note of issue certifying that discovery was complete.

PROCEDURAL HISTORY

Supreme Court, New York County, denied defendants' motion to vacate its February 13, 2025 order allowing further asset-related depositions. The Appellate Division, First Department, unanimously affirmed the order with costs.

DISPOSITION

affirmed

CASES CITED

- Duracell Intl., Inc. v American Employers' Ins. Co., 187 AD2d 278, 278 [1st Dept 1992]

- Allen v Corwell-Collier Publ. Co., 21 NY2d 403 [1968]
- Baby Phat Holding Co., LLC v Kellwood Co., 123 AD3d 405, 407-408 [1st Dept 2014]
- Dabrowski v ABAX Inc., 199 AD3d 409, 409-410 [1st Dept 2021]

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