

A. A. P. v Union Settlement Assn., Inc.

2026 NY Slip Op 30931(U)

March 10, 2026

Supreme Court, New York County

Docket Number: Index No. 155419/2025

Judge: James G. Clynes

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JAMES G. CLYNES PART 39M

Justice

-----X

A. A. P., NICOLETTE GERENA,
Plaintiff,

- v -

UNION SETTLEMENT ASSOCIATION, INC.,
Defendant.

-----X

UNION SETTLEMENT ASSOCIATION, INC.
Plaintiff,

-against-

SUMMIT FACILITY SOLUTIONS, INC.
Defendant.

-----X

INDEX NO. 155419/2025
MOTION DATE 01/13/2026
MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

Third-Party
Index No. 595004/2026

The following e-filed documents, listed by NYSCEF document number (Motion 001) 16, 17, 18, 19, 20
were read on this motion to/for AMEND CAPTION/PLEADINGS

Upon the foregoing documents, it is ordered that plaintiffs' motion pursuant to CPLR 3025
(b) for an Order granting plaintiff leave to amend the complaint to add SUMMIT FACILITY
SOLUTIONS, INC. as a defendant and to include a cause of action for negligence against
defendant SUMMIT FACILITY SOLUTIONS, INC. is granted without opposition.

Plaintiffs seek damages relating to injuries sustained by the infant plaintiff, A.A.P., on May
30, 2023, when a metal staple became lodged in his throat while he was in the care of defendant
Union Settlement Association, Inc., d/b/a Leggett Memorial Early Childhood Center, a day care
center located at 237 East 104th Street, New York, New York 10029. After filing the summons
and complaint, defendant Union Settlement Association, Inc. commenced a third-party action
against SUMMIT FACILITY SOLUTIONS, INC. It was through discovery that plaintiff obtained

additional information that SUMMIT FACILITY SOLUTIONS, INC. is an entity contracted to provide cleaning services at the daycare facility, including vacuuming rugs and removing debris from activity areas.

Pursuant to CPLR 3025(b), “[a] party may amend his pleading, or supplement it by setting forth additional or subsequent transactions or occurrences, at any time by leave of court or by stipulation of all parties.” Leave to amend pleadings is generally freely granted, absent prejudice and surprise resulting from the delay. *See Edenwald Contr. Co. v City of New York*, 60 NY2d 957, 959 (1983); *Antwerpse Diamantbank N.V. v Nissel*, 27 AD3d 207, 208 (1st Dept 2006). To find prejudice, there must be some indication that the defendant has been hindered in the preparation of his case or prevented from taking some measure in support of his position. *See Abdelnabi v NYC Transit Authority*, 273 AD2d 114, 115 (1st Dept 2000).

Here, plaintiffs’ motion to amend the complaint to amend the complaint to add SUMMIT FACILITY SOLUTIONS, INC. as a defendant and to include a cause of action for negligence against defendant SUMMIT FACILITY SOLUTIONS, INC. will not result in prejudice or surprise resulting from the delay.

Therefore, plaintiffs’ motion to amend the complaint to add SUMMIT FACILITY SOLUTIONS, INC. as a defendant and to include a cause of action for negligence against defendant SUMMIT FACILITY SOLUTIONS, INC., is granted. Accordingly, it is hereby

ORDERED that plaintiff’s motion for leave to amend the complaint to add SUMMIT FACILITY SOLUTIONS, INC. as a defendant is granted; and it is further

ORDERED plaintiffs’ motion to amend the complaint to include a cause of action for negligence against defendant SUMMIT FACILITY SOLUTIONS, INC., is granted

ORDERED that the plaintiff’s motion for leave to amend the complaint is granted; and it is further

ORDERED that the amended complaint, in the form annexed to the motion papers, shall be deemed served upon service of a copy of this order with notice of entry upon all parties who have appeared in the action; and it is further

ORDERED that a supplemental summons and amended complaint, in the form annexed to the motion papers, shall be served, in accordance with the Civil Practice Law and Rules, upon the additional parties in this action within 30 days after service of a copy of this order with notice of entry; and it is further

ORDERED that the action shall bear the following caption:

A.A.P., an infant, by his mother and natural guardian,
NICOLETTE GERENA, and NICOLETTE GERENA,
individually,

Index No.: 155419/2025

Plaintiffs,

-against-

UNION SETTLEMENT ASSOCIATION, INC. d/b/a
LEGGETT MEMORIAL EARLY CHILDHOOD
CENTER, and SUMMIT FACILITY SOLUTIONS,
INC.,

Defendants.

UNION SETTLEMENT ASSOCIATION, INC. d/b/a
LEGGETT MEMORIAL EARLY CHILDHOOD
CENTER,

Defendant/Third-Party Plaintiff,

-against-

SUMMIT FACILITY SOLUTIONS, INC.,

Third-Party Defendant.

And it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the County Clerk and the Clerk of the General Clerk’s Office, who are directed to mark the court’s records to reflect the parties being added pursuant hereto; and it is further

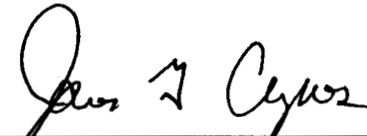
ORDERED that such service upon the County Clerk and the Clerk of the General Clerk’s Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse*

and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website.

This constitutes the Decision and order of the Court.

3/10/2026

DATE



JAMES G. CLYNES, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE