

**Naser v Ahammad**

2025 NY Slip Op 34454(U)

November 20, 2025

Supreme Court, Kings County

Docket Number: Index No. 516065/2024

Judge: Reginald A. Boddie

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This opinion is uncorrected and not selected for official publication.

At an IAS Commercial Part 12 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at 360 Adams Street, Borough of Brooklyn, City and State of New York on the 20th day of November 2025.

P R E S E N T:  
Honorable Reginald A. Boddie  
Justice, Supreme Court

-----X  
MD ABU NASER,

Index No. 516065/2024

Plaintiff,

Cal. No. 17 MS 3

**Decision and Order**

-against-

FOYAZ AHAMMAD and ARUN VADHAN,

Defendants.  
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The following e-filed papers read herein:

NYSCEF Doc Nos.

MS 3

56-69, 71-76

Plaintiff MD Abu Naser (“Plaintiff”) has interposed a motion (motion sequence 3) for an order pursuant to CPLR 3025 (b) granting Plaintiff leave to amend his first amended complaint (i) to add a declaratory judgment claim against defendants Foyaz Ahammad and Arun Vadhan (collectively, “Defendants”), (ii) to amend the amount of damages sought by Plaintiff as to his causes of action against defendant Arun Vadhan for money had and received and unjust enrichment and (iii) to amend an allegation in the amended complaint concerning a third-party’s identification of Plaintiff’s membership status in Bismillah 34<sup>th</sup> Newsstand LLC (*see* NYSCEF Doc No. 56, notice of motion, ¶¶ [1] [a], [b], [c]).

The present action stems from an alleged agreement pursuant to which Plaintiff and defendant Foyaz Ahammad ("Ahammad") agreed to purchase a newsstand located on the southwest corner of 34<sup>th</sup> Street and Sixth Avenue, New York, New York (the "34<sup>th</sup> Street Newsstand") from defendant Arun Vadhan ("Vadhan") for \$255,000 (the "Purchase Price") (*see* NYSCEF Doc No. 28, p. 1). Plaintiff asserts that he initially paid Vadhan \$50,000 of the Purchase Price and thereafter gave Vadhan a check for \$30,000 towards the Purchase Price (*id.*). Plaintiff avers that on July 24, 2023, he, Ahammad, Vadhan, an individual identified as Vadhan's son and Max Bookman, Esq. ("Attorney Bookman"), an attorney with the law firm of Pesetsky and Bookman, P.C., met at Attorney Bookman's office (*id.*, p. 2). Plaintiff asserts that during the meeting in question, Ahammad and Vadhan purportedly represented to Plaintiff that ownership of the 34<sup>th</sup> Street Newsstand would be transferred from Vadhan's son, the then-record owner of the 34<sup>th</sup> Street Newsstand, to a company owned by Plaintiff (*id.*). Sometime thereafter, purportedly at Vadhan's suggestion, Plaintiff alleges that he delivered \$175,000, the balance of the Purchase Price, to Ahammad (*id.*).

Plaintiff asserts that in August 2023 he began operating the 34<sup>th</sup> Street Newsstand, including the hiring of three employees to run the newsstand, while he would stop by one or two days per week (*id.*). Plaintiff alleges that Ahammad worked at the 34<sup>th</sup> Street Newsstand on some days as well (*id.*).

Plaintiff contends that on December 31, 2023, Ahammad proclaimed to be the sole owner of the 34<sup>th</sup> Street Newsstand and excluded Plaintiff from the newsstand's operation by denying him access to the newsstand, denying him any economic benefit from the newsstand, as well as denying him access to the newsstand's banking records, and other business records, including personnel

records, credit card information and processing equipment (*id.*).

On June 10, 2024, Plaintiff instituted the instant action against Ahammad and Vadhan asserting causes of action for breach of contract, fraud, money had and received and unjust enrichment (*id.*).

Plaintiff now moves for an order granting him leave to amend his first amended complaint (a) to add a declaratory judgment claim against Ahammad and Vadhan, (b) to amend the amount of damages sought by Plaintiff as to his causes of action against Vadhan for money had and received and unjust enrichment and (c) to amend an allegation in the amended complaint concerning a third-party's identification of Plaintiff's membership status in Bismillah 34<sup>th</sup> Newsstand LLC.

Plaintiff's motion pursuant to CPLR 3025 (b) for an order granting him leave to file the proposed verified second amended complaint is denied in that Plaintiff failed to include as an exhibit to his motion a copy of the proposed verified second amended complaint, having instead merely annexed to the motion an unsigned redlined version of the proposed verified second amended complaint (*see* NYSCEF Doc No. 64). Indeed, Plaintiff cannot expect the court to grant a motion for leave to amend a pleading without providing the court and adverse party with an actual copy of the proposed amended pleading (*see G4 Noteholder, LLC v LDC Props., LLC*, 153 AD3d 1326, 1327 [2d Dept 2017] [Second Department denied motion for leave to amend pleading

since the movant failed to include a proposed amended pleading along with its motion)].<sup>1</sup> Any relief not expressly addressed herein has been considered and is denied.

ENTER:

  
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Honorable Reginald A. Boddie  
Justice, Supreme Court

HON. REGINALD A. BODDIE  
J.S.C.

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<sup>1</sup> Plaintiff's invocation of the bedrock principle that "leave to amend a pleading should be freely granted" (*see* NYSCEF Doc No. 57, Schwartzman affirm., ¶ 11), albeit accurate, is inapposite in light of Plaintiff's failure to annex to the motion a copy the proposed verified second amended complaint (*see Muro-Light v Farley*, 95 AD3d 846, 847 [2d Dept 2012] [Second Department affirmed Supreme Court's denial of plaintiff's cross-motion for leave to amend the complaint since "[i]n support of her cross motion, the plaintiff failed to submit a proposed amended complaint"]).