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When an Email Isn't Enough: The Statute of Frauds and the Importance of Alternative Pleadings

Business deals are sometimes struck informally, whether over a phone call, a handshake, or a quick email exchange. But when those informal arrangements fall apart and [litigation](#) follows, New York's Statute of Frauds can prove fatal to a [breach-of-contract](#) claim. On the other hand, a plaintiff who pleads the right alternative theories may still have a path to recovery. A recent Second Department decision illustrates both lessons in a single case, providing practical guidance on the interplay between the Statute of Frauds and alternative pleading under CPLR 3014.

The Case: *Bardy v. Bonnem*, 239 A.D.3d 809 (2d Dep't 2025)

In 2016, defendant Joseph Bonnem sought help from plaintiff Jack Bardy in developing a chain of coffee shops called Ready Coffee. Bonnem sent Bardy an email proposing a 25% ownership interest in the venture, to be acquired in two stages over three years. The parties allegedly fleshed out the details of that proposal in an oral agreement, pursuant to which Bardy was granted the option to purchase 25% of Ready Coffee, with the first payment due after the first location opened in February 2019.

However, when Bardy attempted to exercise his purchase option in April 2019, Bonnem rejected it. Bardy commenced suit in January 2023, asserting claims for breach of contract, unjust enrichment, quantum meruit, and breach of fiduciary duty. He also sought the imposition of a constructive trust and an accounting. Bonnem moved to dismiss for failure to state a cause of action, arguing that the contract claim was barred by the Statute of Frauds, and Bardy's equitable claims were an improper attempt to circumvent that statute. The Supreme Court denied the motion in its entirety, and the defendants appealed.

The [Second Department](#) affirmed in part but reversed on the contract claim, holding that the claim should have been dismissed as it violated New York's Statute of Frauds, General Obligations Law § 5-701(a)(1). That statute voids oral agreements that cannot be performed within one year and requires a written memorandum that captures the full intent of the parties, without resorting to parol evidence. Here, the contract terms, as alleged, could only be fully performed after three years, and the November 2016 email was insufficiently comprehensive to satisfy the written memorandum requirement. The Second Department also rejected Bardy's argument that the Statute of Frauds did not apply because he had performed in part under the agreement, by engaging in efforts to develop the coffee shop chain, because that exception did not obviate the written agreement requirement under GOL § 5-701.

However, the Second Department affirmed the trial court's denial of the defendants' motion to dismiss Bardy's quasi-contractual claims. The appellate court held that Bardy pled those claims in the alternative to his contract claim, not to

circumvent the Statute of Frauds and to enforce an otherwise unenforceable contract. The court held that the amended complaint adequately alleged both that Bonnem was enriched by Bardy's efforts and that the reasonable value of those services went uncompensated. The complaint also sufficiently alleged that Bonnem owed Bardy a fiduciary duty and breached it, thereby allowing the requests for an accounting and a constructive trust to survive.

Bardy is a practical reminder that agreements by email may not satisfy the Statute of Frauds if they fail to capture the full scope of the parties' agreement, especially if the deal is a long-term commitment. For clients entering into business arrangements, the lesson is straightforward: put the terms of your venture in a comprehensive, formal and signed agreement. For litigants forced to address deficiencies after the fact, Bardy illustrates the value of pleading in the alternative. A well-pleaded quasi-contractual claim can preserve a path to recovery even where a contract claim will not survive. For defendants, that means a successful Statute of Frauds defense may narrow the litigation without ending it — and the quasi-contractual claims that remain may be just as difficult to defend.