

(GPMI). Plaintiff alleges that GPMI breached its obligations under a master lease and violated state laws concerning environmental contamination and that, as a result, plaintiff incurred substantial expense to remediate environmental contamination on its properties.

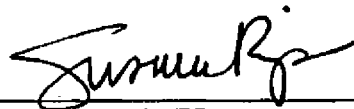
Contrary to defendants' contention, plaintiff's settlement of its direct claims against GPMI in the context of the latter's bankruptcy does not require that its alter ego claims be dismissed. The settlement agreement expressly preserves plaintiff's ability to pursue claims against Lukoil as an "alter ego" of GPMI. Plaintiff had the right to name GPMI as a nominal party in any such suit, and agreed not to seek any further recovery from GPMI (*cf. Bailon v Guane Coach Corp.*, 78 AD3d 608 [1st Dept 2010]; *see also Morales v Solomon Mgt. Co., LLC*, 38 AD3d 381, 382 [1st Dept 2007] ["a release may not be read to cover matters which the parties did not desire or intend to dispose of"] [internal quotation marks omitted]). The parties did not fully release and extinguish the underlying claims but clearly expressed their intent that plaintiff could pursue additional recovery from GPMI's parent, Lukoil, on an alter ego theory (*see Plath v Justus*, 28 NY2d 16, 19 [1971]; *CDR Creances S.A.S. v Cohen*, 104 AD3d 17, 29 [1st Dept 2012], *mod on other grounds* 23 NY3d 307 [2014]; *cf. In re Tronox Inc. v Anadarko*

Petroleum Corp., 549 BR 21, 28-30 [SD NY 2016], appeal dismissed 855 F3d 84 [2d Cir 2017] [intent alone cannot revive claims released in settlement agreement with no carve-out]).

The motion court erred in dismissing the breach of contract cause of action against Lukoil on the ground that it was not a party to the lease and had not assumed GPMI's contractual obligations. Plaintiff did not proceed against Lukoil under those theories, but seeks to hold Lukoil liable for its subsidiary's contractual obligations under an alter ego or veil-piercing theory, which is a permissible theory even though Lukoil is not a party to the agreement (see *Baby Phat Holding Co., LLC v Kellwood Co.*, 123 AD3d 405 [1st Dept 2014]; see also 2406-12 *Amsterdam Assoc. LLC v Alianza LLC*, 136 AD3d 512 [1st Dept 2016]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MARCH 19, 2019



CLERK