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Supreme Court Holds That "Close Enough" Counts When Naming Parties to Suit

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On June 7, 2010, in Krupski v. Costa Crociere S.p.A., No. 09-337, slip op. at 1 (U.S. June 7, 2010), the Supreme Court of the United States held that "relation back under Rule 15(c)(1)(C) depends on what the party knew or should have known, not on the amending party's knowledge or its timeliness in seeking to amend the pleading." Federal Rule of Civil Procedure 15(c) governs the circumstances under which an amendment is considered to take effect on the original date of filing, and not on the date the amendment is actually made. Specifically, Rule 15(c)(1)(C) governs amendments that change the party being sued or the naming of the party being sued. State rules and statutes concerning amendments to correct misnomer or misjoinder often contain language similar to Rule 15(c). Virginia Code section 8.01-6, for example, contains language identical to the Federal Rule. The Krupski decision, therefore, may have far-reaching implications for state civil procedure as well.

In Krupski, the petitioner, Wanda Krupski, suffered a nautical misadventure—she tripped over a cable while aboard a cruise ship and fractured her femur. Krupski mistakenly filed suit against Costa Cruise Lines, the sales and marketing agent for the ship's owner and proper defendant, Costa Crociere. By the time Krupski amended her Complaint, the limitations period for her claim had run. Krupski sought to invoke Rule 15(c); counsel for Costa Crociere argued that the amended Complaint was not brought within the limitations period and could not relate back under Rule 15(c).

The District Court for the Southern District of Florida and the Court of Appeals for the Eleventh Circuit agreed. Rule 15(c) requires, in part, that the plaintiff show that the newly-named defendant "knew or should have known that the action would have been brought against it, but for a mistake concerning the proper party's identity." FED. R. CIV. P. 15(c)(1)(C)(ii). The courts adopted a narrow interpretation of "mistake" under this Rule. They reasoned that Krupski knew or should have known to file suit against Costa Crociere because her ticket identified Costa Crociere as the ship's owner. Therefore, they treated her misdirected lawsuit as an

affirmative decision to sue the wrong entity—not as a mistake concerning the proper party's identity. The courts further reasoned that Krupski waited too long to amend her complaint after she knew of Costa Crociere's existence.

On appeal, the Supreme Court of the United States reversed, holding that the lower courts had misapplied Rule 15(c) and that Costa Crociere "should have known that Krupski's failure to name it as a defendant in her original complaint was due to a mistake concerning the proper party's identity." Krupski, slip op. at 18. The Court explained that Rule 15(c) does not focus on the rationality of the plaintiff's mistake—just that the plaintiff made a mistake concerning the proper party. Whether Krupski knew or should have known that Costa Crociere existed is irrelevant for the purposes of this determination. Instead, the Rule is concerned with whether the prospective defendant knew or should have known that it was an intended party to the lawsuit. The Court determined that Costa Crociere should have been on notice for several reasons:

(a) Costa Cruise Lines and Costa Crociere are related corporate entities with similar corporate names ("crociere" is Italian for "cruises");
(b) Krupski's Complaint described Costa Crociere's activities, but it named Costa Cruise Lines; and
(c) Advertisements on the ticket mentioned the carrier as "Costa Cruises" without clarifying whether this referred to Costa Cruise Lines or Costa Crociere.

Furthermore, the Court observed that Costa Cruise Lines made no attempt to correct Krupski's mistake until after the limitations period had expired. The Court seemed particularly concerned that Costa Crociere would profit from an obvious mistake that its subsidiary only helped to perpetuate.

The Court also clarified that the speed with which a plaintiff moves to amend her Complaint has no bearing on whether the amendment relates back. Although Rule 15(c) contains a number of requirements, haste is not one of them.
The Krupski opinion will substantially affect how many federal courts approach Rule 15(c). Krupski indicates the Supreme Court's willingness to impute notice to a related, similarly-named corporation. A corporation, therefore, will not be in the clear when a plaintiff has mistakenly filed suit against one of the corporation's subsidiaries—even after the limitations period has expired.

Not only does this opinion expand the protections under Rule 15(c), but it may have implications under state law. In Virginia, for example, the standard for amendments that correct a misnomer includes language identical to Federal Rule 15(c). See VA. CODE. ANN. § 8.01-6(iv) ("An amendment changing the party against whom a claim is asserted . . . relates back to the date of the original pleading if . . . that party knew or should have known that but for a mistake concerning the identity of the proper party, the action would have been brought against that party.") When state courts confront the same question under often-identical state rules and statutes, the Supreme Court's reasoning will be highly applicable and should be highly persuasive. Thus, Krupski will have extensive implications for federal and state civil procedure.