

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Anthony Albano v. Heidi E. Roehrig

Albano v. Roehrig, 2025 NY Slip Op 06839 (N.Y. Ct. App. 2025) · No. 2024-01507 · Decided December 10, 2025

SUMMARY

The Appellate Division, Second Department, held that the defendant failed to establish a reasonable excuse for her default and therefore was not entitled to vacate the default order. However, the court vacated the \$385,000 judgment because the plaintiff's vague inquest testimony was insufficient to support the damages award, and remitted the matter for a new damages inquest.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Paul Wooten, J.; Helen Voutsinas, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 10, 2025
DOCKET	2024-01507
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from an order denying her motion to vacate a prior order granting plaintiff leave to enter a default judgment and a subsequent damages judgment entered after an inquest.
STANDARD OF REVIEW	The determination of what constitutes a reasonable excuse for a default is reviewed for abuse of discretion; the Appellate Division reviewed the order on the law and the facts.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Heidi E. Roehrig v. Anthony Albano

TOPICS

- default judgment
- default
- damages
- appellate procedure
- civil procedure

PRACTICE AREAS

civil procedure

personal injury

remedies

QUESTIONS PRESENTED

1. Whether defendant established a reasonable excuse and potentially meritorious defense sufficient to vacate the default judgment under CPLR 5015(a)(1).
2. Whether the damages judgment entered after the inquest should be vacated because the evidence was insufficient to determine whether the award was warranted.

HOLDINGS

1. Defendant was not entitled to vacatur of the default because she failed to demonstrate a reasonable excuse for her failure to appear or answer the complaint; consequently, the court did not need to consider whether she had a potentially meritorious defense.
2. The damages judgment had to be vacated because plaintiff's vague inquest testimony was insufficient to determine the extent to which his injuries were attributable to the accident and therefore whether the \$385,000 award was warranted.

KEY QUOTATIONS

*"A party seeking to vacate a default judgment pursuant to CPLR 5015(a)(1) must demonstrate a reasonable excuse for its delay in appearing and answering the complaint and a potentially meritorious defense to the action" (*2)*

*"An unwarranted and excessive award after inquest will not be sustained, as to do otherwise 'would be tantamount to granting the plaintiffs an open season at the expense of a defaulting defendant'" (*2)*

FACTUAL BACKGROUND

On April 25, 2019, Anthony Albano allegedly was injured while making an oil delivery to Heidi Roehrig's home when he stepped into a sinkhole, twisted his right foot, and fell. Albano sought damages for personal injuries and obtained a default judgment after Roehrig failed to appear or answer. Following a damages inquest, the Supreme Court awarded Albano \$385,000, but the Appellate Division found that Albano's vague inquest testimony did not adequately establish the extent to which his injuries were attributable to the accident.

PROCEDURAL HISTORY

Plaintiff commenced a personal-injury action in June 2022. After defendant failed to appear or answer, the Supreme Court granted plaintiff's unopposed motion for leave to enter a default judgment on January 25, 2023. Following an inquest on damages, the court entered a judgment for plaintiff in the principal sum of \$385,000 on June 1, 2023. The Supreme Court denied defendant's motion to vacate the default order and judgment, and defendant appealed. The Appellate Division affirmed the refusal to vacate the default but modified the order to vacate the damages judgment and remanded for a new damages inquest.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the damages judgment, conduct a new inquest on the issue of damages, and enter an appropriate amended judgment thereafter. The defendant's default remains in place.

CASES CITED

- Cerullo v. City of New York, 230 AD3d 560, 561
- Byung Ha Lee v. Mascarenas, 219 AD3d 928, 929
- Logan v. 250 Pac., LLC, 210 AD3d 1064, 1066
- Austin 26 Dental Group, PLLC v. Sino Northeast Metals (U.S.A.), Inc., 230 AD3d 545, 547
- Simpson v. Clough, 232 AD3d 645, 646
- Kokolis v. Wallace, 202 AD3d 948, 950-951
- Neuman v. Greenblatt, 260 AD2d 616, 617
- Quigley v. Coco's Water Café, Inc., 43 AD3d 1132, 1133-1134