APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

Efran v. Efran

2026 NY Slip Op 02036 · No. Index No. 654577/24; Appeal No. 6265; Case No. 2025-06328 · Decided April 2, 2026

SUMMARY

The Appellate Division, First Department, affirmed dismissal of a corporate action under CPLR 3211(a)(4) because the claims substantially overlapped with issues being litigated in the parties' matrimonial action. The court also held that the challenge to the stay was moot and that the stay was within the trial court's discretion because the actions involved the same parties and operative facts.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Mendez, J.; Pitt-Burke, J.; Higgitt, J.; Hagler, J.
JURISDICTION	Appellate Division, First Department, New York
DECIDED	April 2, 2026
DOCKET	Index No. 654577/24; Appeal No. 6265; Case No. 2025-06328
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order of Supreme Court, New York County, that granted defendant's motion to dismiss the complaint under CPLR 3211(a)(4) and denied plaintiff's motion to vacate a prior order staying the action.
STANDARD OF REVIEW	The dismissal under CPLR 3211(a)(4) was reviewed for whether Supreme Court providently exercised its discretion; the stay was reviewed under the court's broad discretion to stay an action.
PRECEDENTIAL VALUE	published
PARTIES	Beth Efran v. Shawn Efran

TOPICS

divorce · motions to dismiss · family law procedure · equitable distribution · corporate law

PRACTICE AREAS

family law | civil procedure | corporate law | appellate procedure

QUESTIONS PRESENTED

1. Whether Supreme Court properly dismissed the corporate action under CPLR 3211(a)(4) because the claims overlapped with issues central to the pending matrimonial action.
2. Whether the challenge to Supreme Court's stay order was moot after dismissal and, alternatively, whether Supreme Court acted within its discretion in staying the action.

HOLDINGS

1. Supreme Court properly dismissed the corporate action under CPLR 3211(a)(4) because the corporate claims were an attempt to litigate, relitigate, or circumvent issues central to the pending matrimonial action, and the same claims were asserted in that matrimonial action.
2. The challenge to the stay was moot because the dismissal of the action resolved the issue; alternatively, Supreme Court acted within its broad discretion in staying the action to protect the integrity of the matrimonial proceeding.

KEY QUOTATIONS

> *"the corporate claims are merely an attempt to litigate, relitigate, or circumvent issues central to the matrimonial action"* (at 1)

> *"the court acted well within its broad discretion to stay the action to ensure the integrity of the matrimonial action given that its claims involve the same parties and operative facts"* (at 1)

FACTUAL BACKGROUND

Plaintiff and defendant were involved in a divorce proceeding commenced in 2022. Defendant was expected to sell a 51% interest in Efran Films Canada, after which 65% of the proceeds were to be placed in escrow by court order in the matrimonial action. Shortly before the sale, plaintiff initiated a separate action purportedly on behalf of Efran Films, Inc., a marital asset owned equally by the parties, alleging that defendant had transferred assets from that corporation to Efran Films Canada during the marriage.

PROCEDURAL HISTORY

Plaintiff commenced a divorce proceeding in 2022 and later brought this corporate action concerning alleged transfers of assets between two marital corporate assets. Supreme Court dismissed the corporate action under CPLR 3211(a)(4) and denied plaintiff's motion to vacate the stay. The Appellate Division unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Boronow v. Boronow, 71 N.Y.2d 284, 290 (1988)
- Rossignol v. Rossignol, 82 A.D.3d 1335, 1337 (3d Dep't 2011)
- Kelley v. Galina-Bouquet, Inc., 155 A.D.2d 96 (1st Dep't 1990)
- 215 W. 84th St. Owner LLC v. Ozsu, 209 A.D.3d 401, 401 (1st Dep't 2022)

OPINION

PER CURIAM.

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In September 2024, defendant was expected to sell a 51% interest in a marital asset, Efran Films Canada (EFC), after which, by court order in the matrimonial action, he was to place 65% of the proceeds in escrow. Shortly before the sale was to close, plaintiff initiated the instant action, purportedly on behalf of Efran Films, Inc. (EFI), another marital asset in which each party is a 50% shareholder, and there are no other shareholders.

In this action, plaintiff primarily alleges that defendant had transferred assets from EFI to EFC during the parties' marriage.</p> <p>The court providently granted defendant's motion to dismiss this action under CPLR 3211(a)(4), as the corporate claims are merely an attempt to litigate, relitigate, or circumvent issues central to the matrimonial action (<i>see</i> <i>Boronow v Boronow</i>, 71 NY2d 284, 290 [1988]; <i>Rossignol v Rossignol</i>, 82 AD3d 1335, 1337 [3d Dept 2011]; <i>cf</i>.<i> Kelley v Galina-Bouquet, Inc.</i>, 155 AD2d 96 [1st Dept 1990] [Court denied the defendant-husband's motion to dismiss his plaintiff-wife's separate breach of employment contract action against him and his corporation based on claims, in part, pre-dating the marriage as being unrelated to the issue of equitable distribution in the pending divorce action, which is not the case herein]).

The claims in this action were, and continue to be, asserted by plaintiff in the matrimonial action. </p> <p> Accordingly, to the extent plaintiff argues that the court improvidently stayed this instant action pending determination of the parties' motions, the issue is moot.

In any event, the court acted well within its broad discretion to stay the action to ensure the integrity of the matrimonial action given that its claims involve the same parties and operative facts (<i>see 215 W. 84th St Owner LLC v Ozsu</i>, 209 AD3d 401, 401 [1st Dept 2022]).</p> <p>We have considered plaintiff's remaining arguments and find them unavailing.</p><p>THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.</p> <p>ENTERED: April 2, 2026</p> </div> <div> <footer> <div> <p>Court Decisions</p> All Court Decisions Official Reports Service Bound Volumes Decision Search </div> <div> <p>Resources</p> RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index </div> <div> <p>About</p> About the Law Reporting Bureau About our Operations Contact Us Twitter </div> <div> <p>Quick Contact Info</p> <p>17 Lodge Street</p> <p>Albany, NY 12207</p> <p>Phone: (518) 453-6900</p> </div> </footer> </div> <div> <p>Links to or from other sites do not signify endorsement or relationship with them.</p> </div> </div>