

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

Lotus Residences LLC v. Northfield Ins. Co.

2026 NY Slip Op 03272 · No. Index No. 653599/20; Appeal No. 6732; Case No. 2025-02553 · Decided May 26, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed an order denying plaintiffs' motion to vacate a default judgment entered against Castillo Contractors, Inc. on Northfield Insurance Company's cross-claim seeking a declaration of no coverage under an employer exclusion. The court held that plaintiffs established no basis for vacatur under CPLR 5015(a)(3) or in the interest of justice, noting their failure to oppose the default motion and the absence of prejudice to their ability to litigate coverage as additional insureds.

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.; Friedman, J.; Kapnick, J.; Shulman, J.; Higgitt, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	May 26, 2026
DOCKET	Index No. 653599/20; Appeal No. 6732; Case No. 2025-02553
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from an order denying their motion under CPLR 5015(a) to vacate a default judgment entered against Castillo Contractors, Inc. on Northfield Insurance Company's cross-claim seeking a declaration of no coverage.
STANDARD OF REVIEW	Abuse of discretion; the motion court's determination whether to vacate the default judgment was reviewed for a provident exercise of discretion.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Lotus Residences LLC, et al. v. Northfield Insurance Company

TOPICS

insurance coverage

declaratory relief insurance

default judgment

appellate procedure

civil procedure

PRACTICE AREAS

Insurance coverage

Civil procedure

Appellate procedure

QUESTIONS PRESENTED

1. Whether the default judgment should be vacated under CPLR 5015(a)(3).
2. Whether the default judgment should be vacated in the interest of justice.
3. Whether the default judgment against Castillo impaired plaintiffs' ability to litigate their separate coverage claim against Northfield as additional insureds.

HOLDINGS

1. No grounds existed to vacate the default judgment under CPLR 5015(a)(3).
2. No; plaintiffs failed to establish that the default judgment should be vacated in the interest of justice.

KEY QUOTATIONS

“The default judgment against Castillo does not preclude plaintiffs from litigating against Northfield for coverage under the policy as additional insureds, nor does it deny plaintiffs any existing rights since “any effect the court’s declaration may have on [their] possible future interests is too remote and contingent””
([*1])

FACTUAL BACKGROUND

The action arose from an insurance coverage dispute concerning an underlying personal injury action. Northfield obtained a default judgment on its cross-claim against Castillo Contractors, Inc., declaring no coverage based on the policy's employer exclusion, and plaintiffs did not oppose Northfield's motion for that judgment. Although plaintiffs relied on a 2020 Workers' Compensation Board determination that the injured plaintiff was not Castillo's employee, they did not claim lack of knowledge of that determination and waited nearly a year after entry of the default judgment to raise it.

PROCEDURAL HISTORY

Supreme Court, New York County, denied plaintiffs' motion to vacate the default judgment. The Appellate Division, First Department, unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of People v VDARE Found., Inc., 227 AD3d 423, 423-424 (1st Dept 2024), lv denied 41 NY3d 1009 (2024)

- Hermitage Ins. Co. v 186-190 Lenox Rd., LLC, 142 AD3d 422, 424 (1st Dept 2016)
- Marbru Assoc. v White, 143 AD3d 560, 560-561 (1st Dept 2016)

OPINION

PER CURIAM.

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2026 NY Slip Op 03272

May 26, 2026

Appellate Division, First Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

Lotus Residences LLC, et al., Plaintiffs-Appellants,

v

Northfield Insurance Company, Defendant-Respondent, Castillo Contractors, Inc., et al., Defendants.

Decided and Entered: May 26, 2026

Index No. 653599/20|Appeal No. 6732|Case No. 2025-02553|

Before: Manzanet-Daniels, J.P., Friedman, Kapnick, Shulman, Higgitt, JJ.

Stonberg Hickman & Pavloff LLP, New York (Sherri N. Pavloff of counsel), for appellants.

Usery & Associates, New York (Lisa Marie Szczepanski of counsel), for respondent.

*1

Order, Supreme Court, New York County (Lori S. Sattler, J.), entered on or about March 12, 2025, which denied plaintiffs' motion pursuant to CPLR 5015(a) to vacate a default judgment against defendant Castillo Contractors, Inc., unanimously affirmed, without costs.

In this action arising out of an insurance coverage dispute in an underlying personal injury action, the motion court providently exercised its discretion in declining to vacate the default judgment entered against Castillo on defendant Northfield Insurance Company's cross-claim against it for a declaration of no coverage based upon the policy's "employer exclusion."

Plaintiffs did not oppose Northfield's motion for a default judgment.

On appeal, plaintiffs seek vacatur of the default judgment in the interests of justice or pursuant to CPLR 5015(a)(3), neither of which requires a showing of reasonable excuse. Indeed, plaintiffs offer no explanation for their failure to oppose Northfield's motion for a default judgment against Castillo.

Instead, they argue that the default judgment was premised on Northfield's misrepresentation that the policy's employer exclusion applied, even though the Workers' Compensation Board

determined in 2020 that the injured plaintiff in the underlying action was not Castillo's employee.
</p> <p>No grounds for vacatur exist under CPLR 5015(a)(3) (<i>see Matter of People v VDARE Found., Inc.</i>, 227 AD3d 423, 423-424 [1st Dept 2024], <i>lv denied</i> 41 NY3d 1009 [2024]).

Plaintiffs do not claim that they had no knowledge of the Board's decision at the time of Northfield's motion, nor do they explain why they waited almost a year after entry of the default judgment to bring it to the court's attention.</p> <p>Plaintiffs also have not shown that the default judgment should be vacated in the interest of justice.

The default judgment against Castillo does not preclude plaintiffs from litigating against Northfield for coverage under the policy as additional insureds, nor does it deny plaintiffs any existing rights since "any effect the court's declaration may have on [their] possible future interests is too remote and contingent" (<i>Hermitage Ins. Co. v 186-190 Lenox Rd., LLC</i>, 142 AD3d 422, 424 [1st Dept 2016]; <i>cf.

Marbru Assoc. v White</i>, 143 AD3d 560, 560-561 [1st Dept 2016])). On the other hand, were the default judgment vacated, Northfield would be forced to litigate issues concerning its coverage and indemnification of Castillo, despite Castillo's ongoing default.</p> <p>THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.</p> <p>ENTERED: May 26, 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>

PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. Lotus Residences LLC, et al., Plaintiffs-Appellants, v Northfield Insurance Company, Defendant-Respondent, Castillo Contractors, Inc., et al., Defendants. Decided and Entered: May 26, 2026

Index No. 653599/20|Appeal No. 6732|Case No. 2025-02553| Before: Manzanet-Daniels, J.P., Friedman, Kapnick, Shulman, Higgitt, JJ. Stonberg Hickman & Pavloff LLP, New York (Sherri N. Pavloff of counsel), for appellants.

Usery & Associates, New York (Lisa Marie Szcepanski of counsel), for respondent. [*1] Order, Supreme Court, New York County (Lori S. Sattler, J.), entered on or about March 12, 2025, which denied plaintiffs' motion pursuant to CPLR 5015(a) to vacate a default judgment against defendant Castillo Contractors, Inc., unanimously affirmed, without costs.

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Instead, they argue that the default judgment was premised on Northfield's misrepresentation that the policy's employer exclusion applied, even though the Workers' Compensation Board determined in 2020 that the injured plaintiff in the underlying action was not Castillo's employee. No grounds for vacatur exist under CPLR 5015(a)(3) (see *Matter of People v VDARE Found., Inc.*, 227 AD3d 423, 423-424 [1st Dept 2024], lv denied 41 NY3d 1009 [2024]).

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