

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

Ruchi J. Gulati v. Nobel Gulati

2026 N.Y. Slip Op. 00837 (N.Y. Ct. App. 2026) · No. Index No. 365351/25; Appeal No. 5838; Case No. 2025-06839 · Decided February 17, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed an order denying the husband's motion to stay, vacate, or dismiss a divorce action. The court upheld alternate service under CPLR 308(5), found the statutory residency requirement satisfied, and rejected the husband's forum non conveniens argument.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Moulton, J.P.; Friedman, J.; González, J.; O'Neill Levy, J.; Chan, J.
JURISDICTION	Appellate Division, First Department, New York
DECIDED	February 17, 2026
DOCKET	Index No. 365351/25; Appeal No. 5838; Case No. 2025-06839
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant husband appealed from an order denying his motion to stay, vacate, or dismiss the matrimonial action based on improper service, lack of personal jurisdiction, failure to satisfy statutory residency requirements, and forum non conveniens.
STANDARD OF REVIEW	Whether the Supreme Court providently exercised its discretion in authorizing alternate service and denying dismissal; legal issues concerning service, jurisdiction, residency, and due process were reviewed under the governing statutory standards.
PRECEDENTIAL VALUE	Published
PARTIES	Nobel Gulati v. Ruchi J. Gulati

TOPICS

- family law procedure
- service of process
- personal jurisdiction
- forum non conveniens
- appellate procedure

PRACTICE AREAS

family law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the husband could challenge the sufficiency of the evidence supporting the ex parte order for alternate service without moving under CPLR 2221.
2. Whether Supreme Court providently exercised its discretion in authorizing alternate service under CPLR 308(5).
3. Whether the alternate service methods were reasonably calculated to apprise the husband of the action and satisfied due process.
4. Whether the parties satisfied the durational New York residency requirement under Domestic Relations Law § 230.
5. Whether New York was an inconvenient forum warranting dismissal under forum non conveniens principles.

HOLDINGS

1. The husband should have been permitted to challenge the sufficiency of the evidence underlying the ex parte order directing expedient service without bringing a motion under CPLR 2221.
2. Supreme Court's order directing alternate service under CPLR 308(5) was a provident exercise of discretion.
3. The alternate service methods were reasonably calculated to apprise the husband of the action and therefore satisfied due process.
4. The durational residency requirement was satisfied because the parties maintained a New York residence and returned to it regularly, despite spending part of the relevant period out of state.
5. Dismissal on forum non conveniens grounds was properly denied because the husband failed to demonstrate that New York was an inconvenient forum.

KEY QUOTATIONS

*“Contrary to the husband's contention that the wife was required to exhaust every conceivable effort to locate him, impracticability under CPLR 308(5) does not require an extensive showing of due diligence, nor does it require proof that actual attempts were made under each and every statutory method of service.” ([*1])*

*“The methods of service authorized by the court, including leaving the documents with the doorman at the husband's residence, along with overnight mailings to the same address and the husband's place of business, and service by email were reasonably calculated to apprise the husband of the action and therefore satisfied due process.” ([*1])*

FACTUAL BACKGROUND

The wife was unable to personally serve the husband despite sending process servers to multiple possible addresses on multiple days and having them remain for extended periods. Supreme Court authorized alternate service under CPLR 308(5), including delivery to the doorman at the husband's residence, overnight mailings to his residence and place of business, and email service. The parties maintained a New York residence and returned to it regularly despite spending part of the relevant residency period out of state.

PROCEDURAL HISTORY

Supreme Court, New York County, denied the husband's motion. The Appellate Division unanimously affirmed the order without costs.

DISPOSITION

affirmed

CASES CITED

- Preza v Sever's Gourmet, 212 A.D.2d 765, 765 (2d Dep't 1995), lv. denied, 87 N.Y.2d 801 (1995)
- Safadjou v Mohammadi, 105 A.D.3d 1423 (4th Dep't 2013)
- Kelly v Lewis, 220 A.D.2d 485 (2d Dep't 1995)
- Liebeskind v Liebeskind, 86 A.D.2d 207 (1st Dep't 1982), aff'd, 58 N.Y.2d 858 (1983)
- Murjani v Murjani, 123 A.D.3d 409 (1st Dep't 2014)
- Jindal v Jindal, 54 A.D.3d 605 (1st Dep't 2008)
- Wittich v Wittich, 210 A.D.2d 138, 139 (1st Dep't 1994)