

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

Khitri v. Aaglane-Khitri

Khitri, 2026 NY Slip Op 01778 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2022-06254 · Decided March 25, 2026

SUMMARY

The Appellate Division, Second Department affirmed an order denying the defendant's motion to vacate an open-court marital settlement agreement and restore the divorce action to the active calendar. The court held that the agreement contained all material terms and that the defendant failed to establish fraud, duress, overreaching, mistake, or extraordinary circumstances based on ineffective assistance of counsel. The court concluded that the settlement agreement was enforceable and that the Supreme Court properly denied the motion.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Linda Christopher, J.; Barry E. Warhit, J.; Helen Voutsinas, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	March 25, 2026
DOCKET	2022-06254
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant appealed from an order denying those branches of her motion that sought to vacate the parties' open-court settlement agreement and restore the divorce action to the active calendar.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Jamila Aaglane-Khitri v. Shailender Khitri

TOPICS

- family law procedure
- divorce
- contracts
- contract formation
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the parties' open-court settlement agreement should be vacated because of fraud, duress, overreaching, or mistake.
2. Whether the settlement agreement should be vacated based on ineffective assistance of counsel.
3. Whether the divorce action should be restored to the active calendar.

HOLDINGS

1. The open-court settlement agreement was enforceable because it contained all of the material terms of an agreement and the defendant failed to establish fraud, duress, overreaching, mistake, or another sufficient ground for invalidating a contract.
2. Ineffective assistance of counsel did not warrant vacating the settlement agreement because the defendant failed to demonstrate extraordinary circumstances.

KEY QUOTATIONS

*“Stipulations of settlement, especially open court stipulations, are favored by the courts and not lightly cast aside” ([*1])*

*“Where an open-court stipulation of settlement contains all of the material terms of an enforceable agreement, it will be enforced absent a showing of grounds sufficient to invalidate a contract, such as fraud, duress, overreaching, or mistake” ([*1])*

*“in the context of civil litigation, an attorney's errors or omissions are binding on the client and, absent extraordinary circumstances, a claim of ineffective assistance of counsel will not be entertained” ([*2])*

FACTUAL BACKGROUND

The parties married in July 2003. During the plaintiff's divorce action, they entered into a settlement agreement in open court in February 2016 containing the material terms of their agreement. No judgment of divorce was entered, and the action was later marked off the calendar as abandoned.

PROCEDURAL HISTORY

The plaintiff commenced an action for divorce and ancillary relief in February 2014. The parties entered into a settlement agreement in open court in February 2016, but no judgment of divorce was entered and the action was later marked off the calendar as abandoned. The defendant then moved to vacate the settlement agreement and restore the action, the Supreme Court, Queens County, denied that relief, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Posner v Posner, 163 AD3d 1016, 1018
- Weitz v Weitz, 227 AD3d 1124, 1125
- Pascual v Rustic Woods Homeowners Assn., Inc., 230 AD3d 1248, 1250
- Tavolacci v Tavolacci, 114 AD3d 759, 760
- Bohner v Bohner, 186 AD3d 1481, 1482
- Karen E. v Yoram E., 144 AD3d 1081, 1082
- New Penn Fin., LLC v Rubin, 207 AD3d 730, 732

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