

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

Nedd v. Nedd

2026 NY Slip Op 00786 (N.Y. Ct. App. 2026) · No. 2022-05995, 2022-08876 · Decided February 11, 2026

SUMMARY

The Appellate Division, Second Department, reversed orders that sanctioned former counsel for the defendant in a divorce action and directed her to reimburse the plaintiff's counsel \$1,375 in attorneys' fees. The court held that counsel properly executed and filed a consent to change attorney form under CPLR 321(b)(1), did not engage in frivolous conduct, and was not given a reasonable opportunity to be heard before sanctions were imposed.

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; Deborah A. Dowling; Carl J. Landicino
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	February 11, 2026
DOCKET	2022-05995, 2022-08876
DISPOSITION	reversed
PROCEDURAL POSTURE	Nonparty former counsel for the defendant appealed, by permission, from orders imposing a sanction under 22 NYCRR 130-1.1 and directing her to reimburse the plaintiff's counsel for attorneys' fees.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Maryam Jahedi-Perez v. Marcus Nedd, Bernadette Nedd

TOPICS

- sanctions
- attorney fees
- divorce
- appellate procedure
- family law procedure

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure
- sanctions
- attorney fees

QUESTIONS PRESENTED

1. Whether the Supreme Court properly imposed a sanction under 22 NYCRR 130-1.1 against the defendant's former counsel.
2. Whether the Supreme Court properly ordered the former counsel to reimburse the plaintiff's counsel for attorneys' fees.
3. Whether former counsel was required to move by order to show cause to be relieved as counsel after executing a consent to change attorney form under CPLR 321(b)(1).
4. Whether the former counsel received a reasonable opportunity to be heard before costs were imposed.

HOLDINGS

1. The Supreme Court erred in imposing a sanction under 22 NYCRR 130-1.1 and ordering the former counsel to pay \$1,375 in attorneys' fees because the record did not establish frivolous conduct.
2. The Supreme Court erred independently because it did not provide the former counsel a reasonable opportunity to be heard before directing payment of costs.

KEY QUOTATIONS

*"A court does not have the authority to impose a penalty or sanction absent enabling legislation or court rule authorizing the penalty or sanction" ([*1])*

*"Here, the record does not reflect that the appellant engaged in frivolous conduct." ([*2])*

*"Moreover, the court did not give the appellant a reasonable opportunity to be heard before directing the payment of costs" ([*2])*

FACTUAL BACKGROUND

The parties were scheduled to appear for a continued divorce trial on July 20, 2022. Two days before that appearance, at the defendant's request, her then counsel, Maryam Jahedi-Perez, executed a consent to change attorney form with the defendant and newly retained counsel. The fully executed form was filed electronically and received by the plaintiff's counsel. Despite the change of counsel, the Supreme Court imposed a sanction and ordered Jahedi-Perez to reimburse the plaintiff's counsel \$1,375 for the July 20 appearance.

PROCEDURAL HISTORY

In a divorce action with ancillary relief, the Supreme Court, Kings County, sua sponte sanctioned the defendant's former counsel on July 20, 2022, and on July 26, 2022, ordered her to pay \$1,375 in attorneys' fees to the plaintiff's counsel. The former counsel appealed by permission.

DISPOSITION

reversed

CASES CITED

- Matter of Fernandez v Nigro, 178 AD3d 703, 704-705
- Astrada v Archer, 71 AD3d 803, 807
- U.S. Bank N.A. v Tait, 234 AD3d 889, 892
- Matter of Cassini, 182 AD3d 13, 40-41
- Oppedisano v Oppedisano, 138 AD3d 1080, 1081

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