

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

Mullins v. Sharma

Mullins, 2026 NY Slip Op 00253 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2024-02195 · Decided January 21, 2026

SUMMARY

The New York Appellate Division, Second Department dismissed the plaintiff's appeal from an order that sua sponte directed dismissal of a conversion cause of action and made certain findings of fact. The court held that no appeal as of right lay from the sua sponte dismissal because it did not decide a motion made on notice, and the remaining findings and conclusions were not independently appealable.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Per Curiam; Francesca E. Connolly, J.P.; Linda Christopher, J.; Helen Voutsinas, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	January 21, 2026
DOCKET	2024-02195
DISPOSITION	dismissed
PROCEDURAL POSTURE	The plaintiff appealed from an order of the Supreme Court, Suffolk County, that, among other things, sua sponte dismissed a conversion cause of action and made findings of fact.
STANDARD OF REVIEW	The court applied New York rules governing appealability of interlocutory orders and whether findings or reasoning that do not grant or deny relief are independently appealable.
PRECEDENTIAL VALUE	Published
PARTIES	Kevin J. Mullins v. Amit Sharma, et al.

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QUESTIONS PRESENTED

1. Whether an appeal as of right lies from an order provision that sua sponte dismisses a cause of action without deciding a motion made on notice.
2. Whether a party may appeal language or factual findings in an order that do not independently grant or deny relief.

HOLDINGS

1. No appeal lies as of right from the portion of the order that sua sponte dismissed the conversion cause of action because that portion did not decide a motion made on notice. Because the court declined to grant leave to appeal, the plaintiff's contentions concerning that dismissal were not properly before the court.
2. Language or reasoning in an order that a party deems adverse does not establish standing to appeal, and findings of fact or conclusions of law that do not grant or deny relief are not independently appealable.

KEY QUOTATIONS

*"The mere fact that an order "contains language or reasoning that a party deems adverse to its interests does not furnish a basis for standing to take an appeal"" (at *1)*

FACTUAL BACKGROUND

Mullins brought an action individually and derivatively on behalf of Nassau-Suffolk Medical Services, P.C., including a conversion claim against Sharma. In connection with Mullins's motion for leave to serve a third amended complaint, the Supreme Court sua sponte dismissed the conversion cause of action and made factual findings that Mullins considered adverse.

PROCEDURAL HISTORY

Mullins commenced an action, individually and derivatively on behalf of Nassau-Suffolk Medical Services, P.C., asserting claims including conversion against Amit Sharma. After Mullins moved for leave to serve a third amended complaint, the Supreme Court sua sponte directed dismissal of the conversion cause of action and made certain factual findings. The Appellate Division dismissed the appeal with costs because the challenged portions of the order were not appealable as of right and the remaining contentions were not properly before the court.

DISPOSITION

dismissed

CASES CITED

- Sholes v. Meagher, 100 N.Y.2d 333, 335
- Duberry v. CNM Analytics, Inc., 180 A.D.3d 648, 651
- Taub v. Schon, 148 A.D.3d 1200, 1202
- Lugo v. Torres, 174 A.D.3d 592, 594
- Castaldi v. 39 Winfield Assoc., LLC, 22 A.D.3d 780, 781
- Glassman v. ProHealth Ambulatory Surgery Ctr., Inc., 96 A.D.3d 801, 801

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