

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

**Stonewell Bodies & Machine, Inc. v. All Area Fire & Rescue
Apparatus Sales, LLC**

Stonewell Bodies & Mach., Inc. v. All Area Fire & Rescue Apparatus Sales, LLC, 2023 NY Slip Op 00564 (App. Div. 2023) · No. 848 CA 21-01254 · Decided February 3, 2023

SUMMARY

The New York Appellate Division, Fourth Department affirmed an order denying the defendant's motion to vacate a default judgment arising from an agreement concerning the manufacture and purchase of emergency service vehicles. The court held that the defendant failed to establish a reasonable excuse for its default based on alleged law office failure and COVID-19-related hardships. Because no reasonable excuse was shown, the court did not address whether the defendant had a potentially meritorious defense.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Smith, J.P.; Lindley, J.; Curran, J.; Bannister, J.; Montour, J.
JURISDICTION	New York
DECIDED	February 3, 2023
DOCKET	848 CA 21-01254
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order denying its motion to vacate a default judgment.
STANDARD OF REVIEW	The denial of a motion to vacate a default judgment is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published New York Appellate Division memorandum; precedential within the applicable New York appellate hierarchy.
PARTIES	All Area Fire & Rescue Apparatus Sales, LLC v. Stonewell Bodies & Machine, Inc.

TOPICS

default judgment

default

civil procedure

appellate procedure

breach of contract

PRACTICE AREAS

civil procedure

commercial litigation

contracts

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether defendant established a reasonable excuse for its failure to appear sufficient to vacate the default judgment under CPLR 2005 and 5015(a)(1).
2. Whether Executive Order 202.8 supplied a relevant basis for excusing or tolling defendant's failure to appear.
3. Whether the denial of defendant's motion to vacate the default judgment constituted an abuse of discretion.

HOLDINGS

1. Defendant failed to establish a reasonable excuse for its failure to appear because its attorney offered only vague claims concerning pandemic-related hardships and law office failure.
2. Executive Order 202.8 did not provide a relevant excuse because it was issued after the deadline for defendant to appear had passed.
3. Because defendant failed to establish a reasonable excuse for the default, the court did not need to consider whether defendant had a potentially meritorious defense.

KEY QUOTATIONS

"In determining whether to vacate an order entered on default, the court should consider relevant factors, such as the extent of the delay, prejudice or lack of prejudice to the opposing party, whether there has been willfulness, and the strong public policy in favor of resolving cases on the merits" ([*1])

"[W]hile CPLR 2005 allows courts to excuse a default due to law office failure, it was not the Legislature's intent to routinely excuse such defaults, and mere neglect will not be accepted as a reasonable excuse" ([*1])

FACTUAL BACKGROUND

The parties entered into an agreement concerning the manufacture and purchase of three emergency service vehicles. Plaintiff sued for damages based in part on defendant's alleged breach of that agreement. Defendant failed to appear before the deadline, resulting in entry of a default judgment. Defendant later attributed the failure to appear to law office difficulties and hardships related to the COVID-19 pandemic.

PROCEDURAL HISTORY

Plaintiff commenced an action for damages arising from defendant's alleged breach of an agreement concerning the manufacture and purchase of three emergency service vehicles. Defendant failed to appear, and a default judgment was entered. Defendant moved to vacate the default judgment, but the Supreme Court, Cayuga County, denied the motion. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Butchello v. Terhaar, 176 A.D.3d 1579, 1580-1581 (4th Dep't 2019)
- Wells Fargo Bank, N.A. v. Dysinger, 149 A.D.3d 1551, 1552 (4th Dep't 2017)
- Calaci v. Allied Interstate, Inc., 108 A.D.3d 1127, 1128 (4th Dep't 2013)
- Vogt v. Eberhardt, 163 A.D.3d 1514, 1515 (4th Dep't 2018), lv dismissed, 32 N.Y.3d 1091 (2018)
- Wilmington Sav. Fund Soc'y, FSB v. Rodriguez, 197 A.D.3d 784, 786 (2d Dep't 2021)
- Matter of Maziarz v. Western Regional Off-Track Betting Corp., 207 A.D.3d 1065, 1065-1066 (4th Dep't 2022)
- Little v. Steelcase, Inc., 206 A.D.3d 1597, 1599-1600 (4th Dep't 2022)
- Brehm v. Patton, 55 A.D.3d 1362, 1363 (4th Dep't 2008)
- City of Utica v. Mallette, 200 A.D.3d 1614, 1616-1617 (4th Dep't 2021)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-supreme-court-of-the-state-of-new-york-appellate-division-fourth-judicial-department/2023/stonewell-bodies-and-machine-inc-v-all-area-fire-and-rescue-6f53jh4g>