

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

Hillside Manor Rehabilitation and Extended Care Center, LLC v.  
Maynard

2026 NY Slip Op 00496 (App. Div. 2d Dep't 2026) · No. 2023-08430 · Decided February 4, 2026

SUMMARY

The Appellate Division, Second Department, affirmed an order denying the defendant's motion to vacate a default judgment entered in favor of a nursing home for unpaid services. The court held that the process server's affidavit established prima facie evidence of proper service, and that the defendant's alleged discrepancies and denial were insufficient to require a hearing. The defendant also failed to demonstrate fraud, mistake, inadvertence, surprise, or excusable neglect warranting vacatur in the interests of substantial justice.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                     |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, Second Judicial Department                                                                                                                                                              |
| WRITING FOR THE COURT | Mark C. Dillon, J.P.; Cheryl E. Chambers, J.; Lourdes M. Ventura, J.; James P. McCormack, J.                                                                                                                                                        |
| JURISDICTION          | Supreme Court of the State of New York, Appellate Division, Second Judicial Department                                                                                                                                                              |
| DECIDED               | February 4, 2026                                                                                                                                                                                                                                    |
| DOCKET                | 2023-08430                                                                                                                                                                                                                                          |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Defendant appealed from an order of the Supreme Court, Queens County, denying that branch of her CPLR 5015(a) motion seeking to vacate a default judgment entered against her.                                                                      |
| STANDARD OF REVIEW    | The Appellate Division reviewed whether the Supreme Court properly denied vacatur of the judgment under CPLR 5015(a)(4) for lack of jurisdiction and whether the defendant established grounds for vacatur in the interests of substantial justice. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                           |
|                       |                                                                                                                                                                                                                                                     |

## PARTIES

Sharon Maynard, individually and as distributee of the decedent's estate v. Hillside Manor Rehabilitation and Extended Care Center, LLC

## TOPICS

service of process

default judgment

civil procedure

contracts

nursing home liability

## PRACTICE AREAS

civil procedure

appellate procedure

contracts

health law

## QUESTIONS PRESENTED

1. Whether the default judgment should be vacated under CPLR 5015(a)(4) for lack of personal jurisdiction because service of process was allegedly defective.
2. Whether the defendant demonstrated fraud, mistake, inadvertence, surprise, or excusable neglect warranting vacatur of the judgment in the interests of substantial justice.

## HOLDINGS

1. The judgment was not subject to vacatur for lack of jurisdiction because the process server's affidavit constituted prima facie evidence of proper service under CPLR 308, and the defendant failed to rebut that evidence with specific sworn facts or establish discrepancies sufficient to require an evidentiary hearing.
2. Vacatur was not warranted in the interests of substantial justice because the defendant failed to provide evidence of fraud, mistake, inadvertence, surprise, or excusable neglect.

## KEY QUOTATIONS

*“Service of process upon a natural person must be made in strict compliance with the statutory methods of service set forth in CPLR 308”* ([\*1])

*“A process server's affidavit of service constitutes prima facie evidence of proper service”* ([\*1])

*“Although a defendant's sworn denial of receipt of service generally rebuts the presumption of proper service established by a process server's affidavit and necessitates an evidentiary hearing, no hearing is required where the defendant fails to swear to specific facts to rebut the statements in the process server's affidavits”* ([\*1]-[\*2])

*“Minor discrepancies between the appearance of the person allegedly served and the description of the person served in the affidavit of service are generally insufficient to raise an issue of fact warranting a hearing”* ([\*2])

## FACTUAL BACKGROUND

Hillside Manor, a skilled nursing home provider, sued Sharon Maynard, the daughter of a deceased former resident, individually and as distributee of the decedent's estate, to recover the balance for services provided to the decedent. Maynard did not appear or answer, and a default judgment was entered against her for \$27,192.08. In seeking vacatur, Maynard challenged service based on alleged discrepancies between her physical appearance and the process server's description, but she did not swear to specific facts rebutting the process server's affidavit.

## PROCEDURAL HISTORY

Hillside Manor sued Maynard to recover the balance allegedly owed for skilled nursing home care provided to the decedent. Maynard failed to appear or answer, and the Supreme Court granted Hillside Manor's unopposed motion for leave to enter a default judgment; judgment was entered on July 8, 2015, for \$27,192.08. In August 2022, Maynard moved under CPLR 5015(a), among other grounds, to vacate the judgment. The Supreme Court denied the motion in an order dated June 12, 2023, and the Appellate Division affirmed insofar as appealed from.

## DISPOSITION

affirmed

## CASES CITED

- Globe Trade Capital, LLC v. Hoey, 199 A.D.3d 769, 771
- Citimortgage, Inc. v. Cardali, 230 A.D.3d 467, 468
- Taron Partners, LLC v. McCormick, 173 A.D.3d 927, 928
- Deutsche Bank Natl. Trust Co. v. Yurowitz, 181 A.D.3d 646, 648
- Flanagan v. Delaney, 194 A.D.3d 694, 696-697
- TD Bank, N.A. v. Turbo Group, Inc., 226 A.D.3d 1058, 1059
- HSBC Bank USA, N.A. v. Rahmanan, 194 A.D.3d 792, 794
- Wells Fargo Bank, N.A. v. Tricarico, 139 A.D.3d 722, 723
- Legal Servicing, LLC v. Gomez, 229 A.D.3d 785, 787
- CitiMortgage, Inc. v. Maldonado, 171 A.D.3d 1007, 1008-1009