

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Doan-Trang Nguyen v. Dang T. Phan

Nguyen, 2025 NY Slip Op 06969 (Supreme Court of the State of New York Appellate Division First Department 2025) · No. Index No. 311651/17; Appeal No. 5381; Case No. 2025-00080 · Decided December 16, 2025

SUMMARY

The Appellate Division, First Department unanimously affirmed an order denying the plaintiff's requests to allocate insurance proceeds, award prejudgment interest, and reimburse expert fees in a postjudgment matrimonial proceeding. The court held that the settlement agreement did not provide a contractual basis for including the insurance proceeds in the renovation-cost calculation and that the plaintiff had waived further financial disclosure. The court also found no basis for prejudgment interest or expert fees.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; Kennedy, J.; Mendez, J.; Michael, J.; Chan, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, First Department
DECIDED	December 16, 2025
DOCKET	Index No. 311651/17; Appeal No. 5381; Case No. 2025-00080
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a Supreme Court, New York County order denying her cross-motion to allocate insurance proceeds and award prejudgment interest, and declining to award expert fees.
STANDARD OF REVIEW	The court reviewed Supreme Court's determinations for abuse of discretion where applicable, including the denial of prejudgment interest and expert fees, and construed the parties' unambiguous settlement agreement according to its plain terms.
PRECEDENTIAL VALUE	Published
PARTIES	Doan-Trang Nguyen v. Dang T. Phan

TOPICS

family law procedure

divorce

contract interpretation

insurance

appellate procedure

PRACTICE AREAS

family law

contracts

insurance

remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether the insurance proceeds should have been allocated between the parties or factored into defendant's compensation for renovation costs under the 2020 settlement agreement.
2. Whether plaintiff was entitled to prejudgment interest under CPLR 5001(a) on her share of the apartment sale proceeds.
3. Whether plaintiff was entitled to expert fees to oppose defendant's motion or enforce the settlement agreement.

HOLDINGS

1. Plaintiff was not entitled to have the insurance proceeds factored into the calculation because the unambiguous settlement agreement did not mention the insurance claim or its proceeds, and plaintiff had an opportunity to investigate the claim before waiving further financial disclosure.
2. Supreme Court providently exercised its discretion in denying plaintiff prejudgment interest on her share of the net proceeds from the apartment sale.
3. Supreme Court providently exercised its discretion in declining to award plaintiff expert fees because she failed to show that an expert was necessary.

FACTUAL BACKGROUND

During the parties' marriage, their apartment sustained fire damage and the parties received insurance proceeds. The insurer made its final payment on the claim on April 10, 2018, after plaintiff filed for divorce and approximately two years before the parties executed a 2020 settlement agreement. The agreement waived plaintiff's right to further financial disclosure and provided for defendant's compensation for capital contributions to renovation costs upon sale of the apartment, but did not mention the insurance claim or proceeds.

PROCEDURAL HISTORY

In a postjudgment matrimonial proceeding, Supreme Court denied plaintiff's request for allocation of insurance proceeds, prejudgment interest under CPLR 5001, and expert fees. The Appellate Division, First Department unanimously affirmed the order without costs.

DISPOSITION

affirmed

CASES CITED

- *Kojovic v Goldman*, 35 AD3d 65, 68-70 (1st Dept 2006), lv denied 8 NY3d 804 (2007)
- *B.D. v E.D.*, 218 AD3d 9, 14 (1st Dept 2023)
- *Rubin v Rubin*, 1 AD3d 220, 221 (1st Dept 2003), lv denied 2 NY3d 706 (2004)
- *O'Donnell v O'Donnell*, 2 AD3d 604, 605 (2d Dept 2003)

OPINION

PER CURIAM.

Doan-Trang Nguyen v Dang T. Phan (2025 NY Slip Op 06969) Doan-Trang Nguyen v Dang T. Phan 2025 NY Slip Op 06969 Decided on December 16, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered: December 16, 2025 Before: Moulton, J.P., Kennedy, Mendez, Michael, Chan, JJ. Index No. 311651/17|Appeal No. 5381|Case No. 2025-00080| [*1]Doan-Trang Nguyen, Plaintiff-Appellant, v Dang T. Phan, Defendant-Respondent.

Davidoff Hutcher & Citron, LLP, New York (Patricia Ann Grant and Nicole G. Santo of counsel), for appellant. Chemtob Moss Forman & Beyda, LLP, New York (James D'Elicio of counsel), for respondent. Order, Supreme Court, New York County (Michael L. Katz, J.), entered November 19, 2024, which, to the extent appealed from, denied plaintiff's cross-motion for an order allocating certain insurance proceeds to each party and for prejudgment interest in accordance with CPLR 5001, and declined to award plaintiff expert fees, unanimously affirmed, without costs.

In this postjudgment matrimonial proceeding, Supreme Court correctly determined that the parties received proceeds from an insurance claim for fire damage sustained to their apartment during their marriage, and that the final payment of those proceeds was made after plaintiff filed for divorce but approximately two years before the execution of their 2020 settlement agreement.

Defendant submitted bank account statements showing deposits, some of which were made before commencement of the action, which he asserted were payments from the insurer. Defendant also submitted the insurer's general release, dated April 10, 2018, upon its final payment on the claim. Plaintiff was on notice of the insurance claim. There is nothing in the record to indicate that defendant hid the insurance payments from plaintiff or that he used the insurance proceeds to improperly calculate his renovation costs of the subject apartment.

In any event, even assuming the truth of plaintiff's assertions regarding the insurance proceeds, she had ample opportunity to confirm the status of the insurance claim before executing the 2020 settlement agreement wherein she waived the right to any further financial disclosure (see *Kojovic v Goldman*, 35 AD3d 65, 68-70 [1st Dept 2006], lv denied 8 NY3d 804 [2007]).

Furthermore, the plain terms of the settlement agreement provide for defendant to be compensated for his capital contributions to the renovation costs of the parties' apartment upon its sale. Contrary to plaintiff's contention, there is no contractual basis to factor the insurance proceeds into this calculation as the unambiguous agreement does not mention the insurance claim or the proceeds from that claim (see B.D. v E.D., 218 AD3d 9, 14 [1st Dept 2023]).

Supreme Court providently exercised its discretion in denying plaintiff's request for prejudgment interest under CPLR 5001(a) on plaintiff's share of the net proceeds from the sale of the apartment (see Rubin v Rubin, 1 AD3d 220, 221 [1st Dept 2003], lv denied 2 NY3d 706 [2004]). Plaintiff points to no provision of the settlement agreement breached by defendant, nor does she identify any payout deadline for her share of the net proceeds.

Defendant attempted to distribute plaintiff's share according to his calculations. When the parties were unable to agree on plaintiff's share, he duly moved to enforce the settlement agreement. Finally, Supreme Court providently exercised its discretion in declining to award expert fees to plaintiff (see O'Donnell v O'Donnell, 2 AD3d 604, 605 [2d Dept 2003]).

Plaintiff failed to demonstrate that an expert was necessary to oppose defendant's motion or otherwise enforce the settlement agreement with respect to distribution of the net proceeds. We have considered plaintiff's remaining arguments and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: December 16, 2025

PER CURIAM.

Doan-Trang Nguyen v Dang T. Phan (2025 NY Slip Op 06969) Doan-Trang Nguyen v Dang T. Phan 2025 NY Slip Op 06969 Decided on December 16, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered: December 16, 2025 Before: Moulton, J.P., Kennedy, Mendez, Michael, Chan, JJ. Index No. 311651/17|Appeal No. 5381|Case No. 2025-00080| [*1]Doan-Trang Nguyen, Plaintiff-Appellant, v Dang T. Phan, Defendant-Respondent.

Davidoff Hutcher & Citron, LLP, New York (Patricia Ann Grant and Nicole G. Santo of counsel), for appellant. Chemtob Moss Forman & Beyda, LLP, New York (James D'Elicio of counsel), for respondent. Order, Supreme Court, New York County (Michael L. Katz, J.), entered November 19, 2024, which, to the extent appealed from, denied plaintiff's cross-motion for an order allocating certain insurance proceeds to each party and for prejudgment interest in accordance with CPLR 5001, and declined to award plaintiff expert fees, unanimously affirmed, without costs.

In this postjudgment matrimonial proceeding, Supreme Court correctly determined that the parties received proceeds from an insurance claim for fire damage sustained to their apartment during their marriage, and that the final payment of those proceeds was made after plaintiff filed for divorce but approximately two years before the execution of their 2020 settlement agreement.

Defendant submitted bank account statements showing deposits, some of which were made before commencement of the action, which he asserted were payments from the insurer. Defendant also submitted the insurer's general release, dated April 10, 2018, upon its final payment on the claim. Plaintiff was on notice of the insurance claim. There is nothing in the record to indicate that defendant hid the insurance payments from plaintiff or that he used the insurance proceeds to improperly calculate his renovation costs of the subject apartment.

In any event, even assuming the truth of plaintiff's assertions regarding the insurance proceeds, she had ample opportunity to confirm the status of the insurance claim before executing the 2020 settlement agreement wherein she waived the right to any further financial disclosure (see *Kojovic v Goldman*, 35 AD3d 65, 68-70 [1st Dept 2006], lv denied 8 NY3d 804 [2007]).

Furthermore, the plain terms of the settlement agreement provide for defendant to be compensated for his capital contributions to the renovation costs of the parties' apartment upon its sale. Contrary to plaintiff's contention, there is no contractual basis to factor the insurance proceeds into this calculation as the unambiguous agreement does not mention the insurance claim or the proceeds from that claim (see *B.D. v E.D.*, 218 AD3d 9, 14 [1st Dept 2023]).

Supreme Court providently exercised its discretion in denying plaintiff's request for prejudgment interest under CPLR 5001(a) on plaintiff's share of the net proceeds from the sale of the apartment (see *Rubin v Rubin*, 1 AD3d 220, 221 [1st Dept 2003], lv denied 2 NY3d 706 [2004]). Plaintiff points to no provision of the settlement agreement breached by defendant, nor does she identify any payout deadline for her share of the net proceeds.

Defendant attempted to distribute plaintiff's share according to his calculations. When the parties were unable to agree on plaintiff's share, he duly moved to enforce the settlement agreement. Finally, Supreme Court providently exercised its discretion in declining to award expert fees to plaintiff (see *O'Donnell v O'Donnell*, 2 AD3d 604, 605 [2d Dept 2003]).

Plaintiff failed to demonstrate that an expert was necessary to oppose defendant's motion or otherwise enforce the settlement agreement with respect to distribution of the net proceeds. We have considered plaintiff's remaining arguments and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: December 16, 2025

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/supreme-court-of-the-state-of-new-york-appellate-division-first-department-supreme-court-of-the-stat/2025/doan-trang-nguyen-v-dang-t-phan-cgka0t85>