

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

Perez v. Norman's Cay Group LLC Doing Business as LAS' LAP et al.

2026 NY Slip Op 00222 (Supreme Court of the State of New York Appellate Division First Department 2026) ·
No. Index No. 151886/24; Appeal No. 5614; Case No. 2024-05643 · Decided January 15, 2026

SUMMARY

The Appellate Division, First Department dismissed defendants’ appeal from an order denying their motion to dismiss discrimination claims under the New York State and New York City Human Rights Laws. The court held that the order was nonappealable because defendants failed to appear for oral argument and therefore defaulted, directing them to seek vacatur of the default by showing a reasonable excuse and meritorious grounds.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Kern, J.P.; Scarpulla, J.; Kapnick, J.; Shulman, J.; Hagler, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, First Department
DECIDED	January 15, 2026
DOCKET	Index No. 151886/24; Appeal No. 5614; Case No. 2024-05643
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants appealed from an order of Supreme Court, New York County, denying their motion to dismiss plaintiff's discrimination claims under the New York State Human Rights Law and New York City Human Rights Law.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Norman's Cay Group LLC Doing Business as LAS' LAP et al. v. Jaelis Perez

TOPICS

- appellate procedure
- default
- motions to dismiss
- employment discrimination
- civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

employment law

civil rights

QUESTIONS PRESENTED

1. Whether defendants could appeal from an order entered upon their default after they failed to appear for oral argument on their motion to dismiss.
2. Whether defendants' remaining appellate arguments warranted relief.

HOLDINGS

1. An appeal does not lie from an order entered upon the default of the appealing party.
2. A party seeking relief from an order entered upon its default must move to vacate the default and establish a reasonable excuse and potentially meritorious grounds.

KEY QUOTATIONS

*“No appeal lies from an order entered upon default of the appealing party” (*1)*

*“The proper procedure is for defendants to move to vacate the default, proffering a reasonable excuse and meritorious grounds for the motion” (*1)*

FACTUAL BACKGROUND

Defendants moved to dismiss Jaelis Perez's discrimination claims under the New York State Human Rights Law and New York City Human Rights Law. Defendants failed to appear for oral argument on the motion, resulting in a default. They then appealed from the order denying the motion to dismiss.

PROCEDURAL HISTORY

Supreme Court, New York County, entered an order on or about July 23, 2024, denying defendants' motion to dismiss. Defendants failed to appear for oral argument on their motion, and the Appellate Division dismissed the appeal as taken from a nonappealable order entered upon defendants' default.

DISPOSITION

dismissed

CASES CITED

- Forest Walnut LLC v. Abizker, 224 A.D.3d 408, 409 (1st Dep't 2024)
- Spallone v. Spallone, 171 A.D.3d 527, 528 (1st Dep't 2019), leave denied, 33 N.Y.3d 910 (2019)

OPINION

PER CURIAM.

Perez v Norman's Cay Group LLC (2026 NY Slip Op 00222) Perez v Norman's Cay Group LLC 2026 NY Slip Op 00222 Decided on January 15, 2026 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: January 15, 2026 Before: Kern, J.P., Scarpulla, Kapnick, Shulman, Hagler, JJ. Index No. 151886/24|Appeal No. 5614|Case No. 2024-05643| [*1]Jaelis Perez, Plaintiff-Respondent, v Norman's Cay Group LLC Doing Business as LAS' LAP et al. Defendants-Appellants.

The Landau Group, PC, New York (Kevin Landau of counsel), for appellants. Igbokwe PLLC, New York (O. Williams Igbokwe of counsel), for respondent. Appeal from order, Supreme Court, New York County (Suzanne J. Adams, J.), entered on or about July 23, 2024, which denied defendants' motion to dismiss plaintiff's discrimination claims under the New York State Human Rights Law (State HRL) and New York City Human Rights Law (City HRL), unanimously dismissed, without costs, as taken from a nonappealable order.

"No appeal lies from an order entered upon default of the appealing party" (Forest Walnut LLC v Abizker, 224 AD3d 408, 409 [1st Dept 2024]; see also Spallone v Spallone, 171 AD3d 527, 528 [1st Dept 2019], lv denied 33 NY3d 910 [2019]; 22 NYCRR 202.27[b]). Defendants moved to dismiss plaintiff's discrimination claims but failed to appear for oral argument on the motion.

The proper procedure is for defendants to move to vacate the default, proffering a reasonable excuse and meritorious grounds for the motion (CPLR 5015[a][1]; Forest Walnut LLC, 224 AD3d at 409). We have considered defendants' remaining arguments and find them unavailing.THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: January 15, 2026

PER CURIAM.

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