

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

Sharma v. Mullins

2026 NY Slip Op 00276 · No. 2024-05906 · Decided January 21, 2026

SUMMARY

The New York Appellate Division, Second Department dismissed an appeal by defendants Kevin Mullins and Salvatore Zavarella from an order disqualifying counsel for another defendant, SpineCare Long Island, PLLC. The court held that the appellants were not aggrieved by the disqualification order and that adverse findings and conclusions not granting or denying relief were not independently appealable.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Linda Christopher, J.; Helen Voutsinas, J.; Phillip Hom, J.
JURISDICTION	New York Appellate Division, Second Department
DECIDED	January 21, 2026
DOCKET	2024-05906
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants Kevin Mullins and Salvatore Zavarella appealed from an order granting the plaintiffs' motion to disqualify counsel for defendant SpineCare Long Island, PLLC, and making certain findings of fact.
STANDARD OF REVIEW	The appeal was dismissed as a matter of appellate standing and appealability because the appellants were not aggrieved by the order and the challenged findings did not independently grant or deny relief.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Kevin Mullins, Salvatore Zavarella v. Amit Sharma, plaintiffs individually and derivatively on behalf of SpineCare Long Island, PLLC

TOPICS

appellate procedure

standing

civil procedure

breach of contract

breach of fiduciary duty

PRACTICE AREAS

appellate procedure

civil procedure

legal ethics

contracts

fiduciary duty

QUESTIONS PRESENTED

1. Whether Mullins and Zavarella were aggrieved and therefore entitled to appeal an order disqualifying counsel for another defendant.
2. Whether adverse language, reasoning, or findings of fact in the order were independently appealable.

HOLDINGS

1. Mullins and Zavarella were not aggrieved within the meaning of CPLR 5511 because the plaintiffs did not seek, and the order did not grant, any relief against them.
2. The remaining contentions were not properly before the court because adverse language or reasoning does not establish appellate standing, and findings of fact and conclusions of law that do not grant or deny relief are not independently appealable.

KEY QUOTATIONS

*"A person is aggrieved within the meaning of CPLR 5511 "when he or she asks for relief but that relief is denied in whole or in part" or "when someone asks for relief against him or her, which the person opposes, and the relief is granted in whole or in part"" ([*1])*

*"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"" ([*2])*

FACTUAL BACKGROUND

The plaintiffs sued, among others, Kevin Mullins, Salvatore Zavarella, and SpineCare Long Island, PLLC, asserting breach-of-contract and breach-of-fiduciary-duty claims. They sought to disqualify Ruskin Moscou Faltischek, P.C., from representing SpineCare because the firm concurrently represented SpineCare, Mullins, and Zavarella. Supreme Court granted the disqualification motion as to SpineCare's counsel, although the order did not grant relief against Mullins or Zavarella.

PROCEDURAL HISTORY

The plaintiffs commenced an action asserting, among other claims, breach of contract and breach of fiduciary duty, individually and derivatively on behalf of SpineCare Long Island, PLLC. They moved to disqualify Ruskin Moscou Faltischek, P.C., as SpineCare's counsel because the firm concurrently represented SpineCare, Mullins, and Zavarella. Supreme Court, Suffolk County, granted that branch of the motion and made findings of fact. Mullins and Zavarella appealed, and the Appellate Division dismissed the appeal because they were not aggrieved by relief directed only at another defendant.

DISPOSITION

dismissed

CASES CITED

- *Mixon v. TBV, Inc.*, 76 AD3d 144, 156-157
- *Estella v. Val Auto, LLC*, 221 AD3d 967, 968
- *Matter of Blauman-Spindler v. Blauman*, 184 AD3d 636, 637
- *Lugo v. Torres*, 174 AD3d 592, 594
- *Castaldi v. 39 Winfield Assoc., LLC*, 22 AD3d 780, 781
- *Glassman v. ProHealth Ambulatory Surgery Ctr., Inc.*, 96 AD3d 801, 801

OPINION

PER CURIAM.

Sharma v Mullins (2026 NY Slip Op 00276) Sharma v Mullins 2026 NY Slip Op 00276 Decided on January 21, 2026 Appellate Division, Second 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 on January 21, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department FRANCESCA E. CONNOLLY, J.P.

LINDA CHRISTOPHER HELEN VOUTSINAS PHILLIP HOM, JJ. 2024-05906 (Index No. 602980/22) [*1]Amit Sharma, etc., et al, respondents, v Kevin Mullins, et al., appellants, et al., defendants. Ruskin Moscou Faltischek, P.C., Uniondale, NY (Thomas A. Telesca of counsel), for appellants. Harter Secrest & Emery LLP, Buffalo, NY (Lauren R. Mendolera and Katherine E. Rahmlow of counsel), for respondents.

DECISION & ORDER In an action, inter alia, to recover damages for breach of contract and breach of fiduciary duty, the defendants Kevin Mullins and Salvatore Zavarella appeal from an order of the Supreme Court, Suffolk County (James Hudson, J.), dated November 28, 2023.

The order, insofar as appealed from, granted that branch of the plaintiffs' motion which was to disqualify Ruskin Moscou Faltischek, P.C., as counsel for the defendant SpineCare Long Island, PLLC, and made certain findings of fact. ORDERED that the appeal is dismissed, with costs.

In February 2022, the plaintiffs, individually and derivatively on behalf of SpineCare Long Island, PLLC (hereinafter SpineCare), commenced this action against, among others, the defendants Kevin Mullins, Salvatore Zavarella, and SpineCare. Thereafter, the plaintiffs moved, among other things, to disqualify Ruskin Moscou Faltischek, P.C. (hereinafter RMF), as counsel for SpineCare on the ground that RMF had a conflict of interest in concurrently representing SpineCare, Mullins, and Zavarella.

In an order dated November 28, 2023, the Supreme Court, inter alia, granted that branch of the plaintiffs' motion. Mullins and Zavarella appeal. A person is aggrieved within the meaning of CPLR 5511 "when he or she asks for relief but that relief is denied in whole or in part" or "when someone asks for relief against him or her, which the person opposes, and the relief is granted in whole or in part" (*Mixon v TBV, Inc.*, 76 AD3d 144, 156-157 [emphasis and footnotes omitted]).

Here, Mullins and Zavarella appeal from so much of the order as granted that branch of the plaintiffs' motion which was to disqualify counsel for another defendant. Notwithstanding the fact that Mullins and Zavarella opposed that branch of the plaintiffs' motion, they were not aggrieved by so much of the order as granted that branch of the motion because the plaintiffs did not seek, and the order did not grant, any relief against them (see *Estella v Val Auto, LLC*, 221 AD3d 967, 968; *Matter of Blauman-Spindler v Blauman*, 184 AD3d 636, 637; *Mixon v TBV, Inc.*, 76 AD3d at 156-157).

The remaining contentions of Mullins and Zavarella also are not properly before this Court. The mere fact that an order "contains language or reasoning that a party deems adverse to its [*2]interests does not furnish a basis for standing to take an appeal" (*Lugo v Torres*, 174 AD3d 592, 594 [internal quotation marks omitted]; see *Castaldi v 39 Winfield Assoc., LLC*, 22 AD3d 780, 781).

Further, findings of fact and conclusions of law that do not grant or deny relief are not independently appealable (see *Glassman v ProHealth Ambulatory Surgery Ctr., Inc.*, 96 AD3d 801, 801). Accordingly, we dismiss the appeal. CONNOLLY, J.P., CHRISTOPHER, VOUTSINAS and HOM, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court