

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

Alysia Renee Steinmann v. Frederick Leonid Steinmann

Steinmann, 2026 NY Slip Op 00069 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 365126/24; Appeal Nos. 5523-5524; Case Nos. 2025-01215 and 2025-01793
· Decided January 8, 2026

SUMMARY

The New York Appellate Division, First Department dismissed two appeals in a matrimonial proceeding. It held that the appeal from the pendente lite order was unavailable because the order was entered upon the wife's default, and that the wife was not an aggrieved party with respect to the nesting-schedule order to which she had consented.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; González, J.; Mendez, J.; Rodriguez, J.; Pitt-Burke, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	January 8, 2026
DOCKET	Index No. 365126/24; Appeal Nos. 5523-5524; Case Nos. 2025-01215 and 2025-01793
DISPOSITION	dismissed
PROCEDURAL POSTURE	The wife appealed from two orders of Supreme Court, New York County, in a matrimonial proceeding: a January 22, 2025 pendente lite order and a February 26, 2025 order setting a nesting schedule for the parties' children.
PRECEDENTIAL VALUE	published
PARTIES	Alysia Renee Steinmann v. Frederick Leonid Steinmann

TOPICS

- family law procedure
- appellate procedure
- default
- appellate jurisdiction
- visitation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether an appeal lies from a pendente lite order entered upon the appealing wife's default.
2. Whether the wife was an aggrieved party entitled to appeal an order setting a nesting schedule to which she consented.

HOLDINGS

1. An appeal does not lie from an order entered upon the default of the appealing party; the defaulting party's remedy is a motion to vacate the default rather than an appeal.
2. A party who consented to an order and received the relief requested in that order is not an aggrieved party within the meaning of CPLR 5511 and may not appeal it.

KEY QUOTATIONS

"The wife's failure to submit timely papers in opposition to the husband's motion, or obtain permission to submit late papers, constituted a default; her remedy is not an appeal but a motion to vacate the default" ([*1])

"The record shows that the wife consented to that order, as the court gave her the parental access that she requested in her proposed nesting order." ([*1])

FACTUAL BACKGROUND

In a matrimonial action, the husband moved for pendente lite relief, including maintenance. The wife failed to submit timely opposition papers or obtain permission to submit late papers, resulting in a default. The parties also submitted proposed nesting schedules for their children, and Supreme Court entered a schedule that provided the wife with the parental access she had requested.

PROCEDURAL HISTORY

Supreme Court granted the husband's motion for, among other things, pendente lite maintenance and directed the parties to submit proposed nesting schedules. The court later entered an order setting the nesting schedule based on the parties' proposals. The Appellate Division dismissed both appeals: the first because it was taken from a nonappealable order entered upon the wife's default, and the second because the wife consented to the order and therefore was not aggrieved.

DISPOSITION

dismissed

CASES CITED

- Matter of Jabuki M. v. Nicole B., 196 AD3d 405, 405 (1st Dept 2021)
- U.S. Bank N.A. v. Tiburcio, 199 AD3d 620, 620 (1st Dept 2021)

- Deutsch v. Deutch, 194 AD3d 542, 542 (1st Dept 2021)
- Matter of Miguel L. v. Ashley J.L., 177 AD3d 476, 477 (1st Dept 2019)
- Matter of Jessica M. v. Julio G.R., 176 AD3d 584, 584-585 (1st Dept 2019)

OPINION

Steinmann v. Steinmann 2026 NY Slip Op 00069

PER CURIAM.

Steinmann v Steinmann (2026 NY Slip Op 00069) Steinmann v Steinmann 2026 NY Slip Op 00069 Decided on January 08, 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 08, 2026 Before: Moulton, J.P., González, Mendez, Rodriguez, Pitt-Burke, JJ. Index No. 365126/24|Appeal No. 5523-5524|Case No. 2025-01215 2025-01793| [*1]Alysia Renee Steinmann, Plaintiff-Appellant, v Frederick Leonid Steinmann, Defendant-Respondent. Butterman & Kahn, LLP, New York (Jay R. Butterman of counsel), for appellant. Mantel McDonough Riso, LLP, New York (Alison L. Epilone of counsel), for respondent. Appeal from order, Supreme Court, New York County (Ariel D. Chesler, J.), entered on or about January 22, 2025, which, to the extent appealed from, granted defendant husband's motion for, among other things, pendente lite maintenance, and ordered the parties to submit proposed orders setting a nesting schedule for the parties' children, unanimously dismissed, without costs, as taken from a nonappealable order. Appeal from order, same court and Justice, entered on or about February 26, 2025, which set the nesting schedule based on the parties' proposed orders, unanimously dismissed, without costs, as taken by a nonaggrieved party. The appeal from the January 22, 2025 pendente lite order is dismissed, as no appeal lies from an order entered upon the default of the appealing party (see Matter of Jabuki M. v Nicole B. , 196 AD3d 405, 405 [1st Dept 2021]). The wife's failure to submit timely papers in opposition to the husband's motion, or obtain permission to submit late papers, constituted a default; her remedy is not an appeal but a motion to vacate the default (see CPLR 5511; U.S. Bank N.A. v Tiburcio , 199 AD3d 620, 620 [1st Dept 2021]; Deutsch v Deutch , 194 AD3d 542, 542 [1st Dept 2021]). As a result, the appeal from the pendente lite order is not properly before this Court (see Matter of Miguel L. v Ashley J.L. , 177 AD3d 476, 477 [1st Dept 2019]). The appeal from the February 26, 2025 order setting a nesting schedule is also dismissed. The record shows that the wife consented to that order, as the court gave her the parental access that she requested in her proposed nesting order. Therefore, the wife is not an aggrieved party within the meaning of CPLR 5511 (see Matter of Jessica M. v Julio G.R. , 176 AD3d 584, 584-585 [1st Dept 2019]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: January 8, 2026

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