

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

Roberson-Fisch v. Fisch

Roberson-Fisch, 2026 NY Slip Op 02476 (Appellate Division of the Supreme Court of the State of New York First Department 2026) · No. Index No. 365061/22; Appeal No. 6451; Case No. 2025-05741 · Decided April 23, 2026

SUMMARY

The Appellate Division, First Department modified an order holding the wife in contempt for failing to comply with a prior order concerning transfer of funds. The court vacated the contempt finding because the prior order lacked a clear deadline and the contempt order did not make the required findings regarding prejudice to the husband's rights or remedies.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Friedman, J.; Gesmer, J.; Shulman, J.; Chan, J.
JURISDICTION	New York, Appellate Division, First Department
DECIDED	April 23, 2026
DOCKET	Index No. 365061/22; Appeal No. 6451; Case No. 2025-05741
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff appealed from an order of Supreme Court, New York County, that granted defendant's motion and held plaintiff in contempt for failing to comply with a prior Appellate Division order.
STANDARD OF REVIEW	Abuse of discretion, including whether the contempt determination was an improvident exercise of discretion; legal sufficiency of the contempt order was reviewed as a matter of law.
PRECEDENTIAL VALUE	Published
PARTIES	Laura Roberson-Fisch v. Michael Fisch

TOPICS

- family law procedure
- contempt
- appellate procedure
- standard of review
- remedies

PRACTICE AREAS

family law

civil procedure

appellate procedure

contempt

remedies

QUESTIONS PRESENTED

1. Whether the appeal was moot after the contempt had been purged.
2. Whether a civil contempt finding could be sustained when the underlying order lacked a clear and unequivocal deadline for compliance.
3. Whether the contempt finding was legally sufficient when the motion court failed to find that plaintiff's conduct defeated, impaired, impeded, or prejudiced defendant's rights or remedies and failed to include the required recital.

HOLDINGS

1. The appeal was not moot because the contempt adjudication could carry potential enduring consequences.
2. The contempt finding could not be sustained because the prior Appellate Division order did not specify a deadline for transferring the funds and therefore lacked the clear and unequivocal mandate required to support civil contempt.
3. The contempt finding was improper because the motion court did not find that plaintiff's conduct was calculated to or actually did defeat, impair, impede, or prejudice defendant's rights or remedies, and did not include a recital to that effect.

KEY QUOTATIONS

*“Although the contempt has been purged, the appeal is not moot because the adjudication itself may carry potential enduring consequences” (*1)*

*“this Court's March 20, 2025 order did not specify any deadline for transferring the funds and therefore lacked the clear and unequivocal mandate required to support a civil contempt finding” (*1)*

FACTUAL BACKGROUND

The Appellate Division had previously ordered the transfer of funds but did not specify a deadline for the transfer. Supreme Court later held the wife in contempt for failing to comply with that order. Although the contempt had been purged, the Appellate Division considered the appeal because the contempt adjudication could carry enduring consequences.

PROCEDURAL HISTORY

Supreme Court, New York County, granted defendant's motion and held plaintiff in contempt based on her failure to comply with the Appellate Division's March 20, 2025 order. The Appellate Division unanimously modified the order, denied the motion, vacated the contempt finding, and otherwise affirmed.

DISPOSITION

CASES CITED

- Roberson-Fisch v Fisch, 236 AD3d 554 (1st Dept 2025), lv dismissed 44 NY3d 1075 (2026)
- Behan v Kornstein, 164 AD3d 1113, 1116 (1st Dept 2018), lv denied and dismissed 32 NY3d 1078 (2018)
- Matter of April G. v Duane M., 105 AD3d 491, 491 (1st Dept 2013)
- Spathis v Spathis, 174 AD3d 407, 408 (1st Dept 2019)
- Matter of Lipsig [Manus], 139 AD3d 600, 601 (1st Dept 2016)
- Monaco v Monaco, 116 AD3d 452, 453 (1st Dept 2014)
- Matter of Serena W. [Daniels-Wiltshire], 218 AD3d 597, 599 (2d Dept 2023)
- Legacy Org., Inc. v Nomellini, 221 AD3d 487, 488 (1st Dept 2023)
- Clinton Corner H.D.F.C. v Lavergne, 279 AD2d 339, 341 (1st Dept 2001)
- Farkas v Farkas, 209 AD2d 316, 319 (1st Dept 1994)

OPINION

Roberson-Fisch v. Fisch 2026 NY Slip Op 02476

PER CURIAM.

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<p>April 23, 2026</p> <p>Appellate Division, First Department</p> <p>Published by New York
State Law Reporting Bureau pursuant to Judiciary Law § 431.</p> <p>This decision is
uncorrected and subject to revision before publication in the Official Reports.</p> </div> <div>
<p>Laura Roberson-Fisch, Plaintiff-Appellant,</p> <p>v</p> <p>Michael Fisch, Defendant-
Respondent.</p> </div> <p>Decided and Entered: April 23, 2026</p> <p>Index No.
365061/22|Appeal No. 6451|Case No. 2025-05741</p> <p>Before: Scarpulla, J.P., Friedman,
Gesmer, Shulman, Chan, JJ. </p> <div> <p>Mosberg Sharma Stambleck Gross LLP, New York
(Jonathan W. Wolfe of counsel), for appellant.</p> <p>Cohen Clair Lans Greifer & Simpson
LLP, New York (Robert Stephen Cohen of counsel), for respondent.</p> </div> [*1]
 <p>Order, Supreme Court, New York County (Jeffrey H. Pearlman, J.), entered on or
about August 26, 2025, which, to the extent appealed from as limited by the briefs, granted
defendant's motion and held plaintiff in contempt for her failure to comply with this Court's order

dated March 20, 2025 (*Roberson-Fisch v Fisch*, 236 AD3d 554 [1st Dept 2025], *lv* dismissed *44* NY3d 1075 [2026]), unanimously modified, on the law, the motion denied, the finding of contempt vacated, and otherwise affirmed, without costs.

Although the contempt has been purged, the appeal is not moot because the adjudication itself may carry potential enduring consequences (*see Behan v Kornstein*, 164 AD3d 1113, 1116 [1st Dept 2018], *lv* denied and dismissed *32* NY3d 1078 [2018]; *Matter of April G. v Duane M.*, 105 AD3d 491, 491 [1st Dept 2013]).

The court's determination holding the wife in contempt was an improvident exercise of discretion for two reasons. First, this Court's March 20, 2025 order did not specify any deadline for transferring the funds and therefore lacked the clear and unequivocal mandate required to support a civil contempt finding (*see Spathis v Spathis*, 174 AD3d 407, 408 [1st Dept 2019]; *Matter of Lipsig [Manus]*, 139 AD3d 600, 601 [1st Dept 2016]; *Monaco v Monaco*, 116 AD3d 452, 453 [1st Dept 2014]; *Matter of Serena W. [Daniels-Wiltshire]*, 218 AD3d 597, 599 [2d Dept 2023]). Second, the motion court order finding the wife in contempt did not make the required finding that the wife's conduct was calculated to or actually did defeat, impair, impede, or prejudice the rights or remedies of the husband (*see* Judiciary Law § 753[A][3]; *Legacy Org., Inc. v Nomellini*, 221 AD3d 487, 488 [1st Dept 2023]; *Clinton Corner H.D.F.C. v Lavergne*, 279 AD2d 339, 341 [1st Dept 2001]), and did not make a recital to that effect (*see* Judiciary Law § 770; *Farkas v Farkas*, 209 AD2d 316, 319 [1st Dept 1994]).

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: April 23, 2026

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