

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

Montrose v. Jean-Jacques

2025 N.Y. Slip Op. 06701 (N.Y. Ct. App. 2025) · No. 2023-06721 · Decided December 3, 2025

SUMMARY

The New York Appellate Division, Second Department, affirmed an order denying defendants’ motion to vacate a default judgment and dismiss the complaint as abandoned. The court held that defendants failed to provide a reasonable excuse for their default under CPLR 5015(a)(1), and therefore relief under CPLR 3404 was also unavailable.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Barry E. Warhit, J.; Lourdes M. Ventura, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	December 3, 2025
DOCKET	2023-06721
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order denying those branches of their motion that sought, in effect, to vacate a default judgment under CPLR 5015(a)(1) and dismiss the complaint as abandoned under CPLR 3404.
STANDARD OF REVIEW	Whether a defendant has demonstrated a reasonable excuse for a default is committed to the sound discretion of the trial court.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Solange Jean-Jacques, et al. v. Milford Montrose

TOPICS

- default judgment
- default
- motions to dismiss
- civil procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the defendants established a reasonable excuse for their default and a potentially meritorious defense sufficient to vacate the judgment under CPLR 5015(a)(1).
2. Whether the complaint should be dismissed as abandoned under CPLR 3404 after entry of a judgment upon the defendants' default.

HOLDINGS

1. The defendants failed to demonstrate a reasonable excuse for their default because their conclusory and unsubstantiated claim of law office failure amounted to mere neglect. Because they failed to establish a reasonable excuse, the court did not need to consider whether they had a potentially meritorious defense.
2. The defendants were not entitled to dismissal of the complaint as abandoned because the judgment had been entered upon their default and they failed to establish any grounds for relief from that judgment.

KEY QUOTATIONS

*“A defendant seeking to vacate a default in answering or appearing upon the grounds of excusable default pursuant to CPLR 5015(a)(1) must demonstrate a reasonable excuse for the default and a potentially meritorious defense to the action” (*2)*

*“Law office failure may be accepted as a reasonable excuse . . . , provided that such an excuse is supported by a detailed and credible explanation for the law office failure alleged to have caused the default” (*2)*

*“Since the defendants failed to establish a reasonable excuse for their default, it is unnecessary to consider whether they had a potentially meritorious defense” (*2)*

FACTUAL BACKGROUND

In 2007, Milford Montrose, who leased an apartment from the defendants, sued for damages arising from assault and conversion of his property. The defendants failed to appear or answer, and the court granted Montrose leave to enter a default judgment. After a 2019 damages inquest, judgment was entered for Montrose in the total amount of \$344,383. The defendants later attributed their default to law office failure, but offered only a conclusory and unsubstantiated explanation.

PROCEDURAL HISTORY

The plaintiff commenced the action in 2007. After the defendants failed to appear or answer, the Supreme Court granted the plaintiff leave to enter a default judgment in 2009. The defendants' subsequent motion to vacate the default was marked off the calendar, an inquest on damages occurred in 2019, and a \$344,383 judgment was entered in 2021. The Supreme Court denied the defendants' later motion to vacate the judgment and dismiss the complaint as abandoned, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Zirrith v. Rego, 230 A.D.3d 626
- Wells Fargo Bank, N.A. v. Lewis, 232 A.D.3d 649
- Wells Fargo Bank, N.A. v. Hakim, 230 A.D.3d 1271
- Yaghmour v. Mittal, 208 A.D.3d 1283
- HSBC Bank USA, N.A. v. Joseph, 209 A.D.3d 633
- Wells Fargo Bank, N.A. v. Eliacin, 206 A.D.3d 950
- Holubar v. Holubar, 89 A.D.3d 802

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