

**NEW YORK SUPREME COURT, APPELLATE DIVISION, FIRST
DEPARTMENT**

Morrissey v. Morrissey

Morrissey, 2026 NY Slip Op 01164 (N.Y. 2026) · No. Case No. 2025-01632; Appeal No. 5977; Index No.
301220/24 · Decided March 3, 2026

SUMMARY

The New York Appellate Division, First Department, affirmed the denial of the wife's motion to consolidate a Family Court proceeding with the matrimonial action and for renewed maintenance and pendente lite relief. The court also affirmed dismissal under CPLR 3211(a)(4), holding that a previously pending Queens County matrimonial action involved the same parties, subject matter, and substantially similar relief.

OPINION

PER CURIAM.

Morrissey v Morrissey (2026 NY Slip Op 01164) Morrissey v Morrissey 2026 NY Slip Op 01164 Decided on March 03, 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: March 03, 2026 Before: Webber, J.P., Shulman, Higgitt, Rosado, Hagler, JJ. Index No. 301220/24|Appeal No. 5977|Case No. 2025-01632| [*1]Martha Elizalde Morrissey, Plaintiff-Appellant, v Michael Joseph Morrissey, Defendant-Respondent.

Martha Elizalde Morrissey, appellant pro se. Zimmet Law Group P.C., New York (Richard A. Schioppo of counsel), for respondent. Order, Supreme Court, New York County (Michael L. Katz, J.), entered on or about January 24, 2025, which denied plaintiff wife's motion to consolidate a Family Court proceeding pending in New York County with this matrimonial action, and for a renewed award of maintenance and for pendente lite relief, without prejudice to seeking the same relief in a pending matrimonial action between the parties in Supreme Court, Queens County, and granted defendant husband's cross-motion to dismiss the action pursuant to CPLR 3211(a)(4), unanimously affirmed, without costs.

The husband demonstrated that the Queens County matrimonial action, which was pending at the time the wife commenced this matrimonial action, arose from the same subject matter, sought substantially the same relief, and involved the same parties.

Accordingly, Supreme Court providently exercised its "broad discretion" in granting the husband's cross-motion to dismiss pursuant to CPLR 3211(a)(4) (*Whitney v Whitney*, 57 NY2d 731, 732 [1982]; see *Matter of Pryce v Pryce*, 160 AD3d 965, 966 [2d Dept 2018]).

We have reviewed the wife's remaining contentions and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: March 3, 2026