

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

Frank Darras v. Helen Darras

Darras, 2026 NY Slip Op 01764 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2024-06735 · Decided March 25, 2026

SUMMARY

The New York Appellate Division, Second Department, affirmed an order awarding \$2,500 in counsel fees against the defendant under 22 NYCRR 130-1.1. The court held that the defendant engaged in frivolous conduct by pursuing nearly identical proceedings in Illinois and New York and continuing the New York motion after its factual basis had been disproven.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Hector D. LaSalle, P.J.; Cheryl E. Chambers, J.; William G. Ford, J.; James P. McCormack, J.
JURISDICTION	New York Appellate Division, Second Department
DECIDED	March 25, 2026
DOCKET	2024-06735
DISPOSITION	affirmed
PROCEDURAL POSTURE	In a matrimonial action, the defendant appealed from an order granting the plaintiff's request for counsel fees as a sanction for frivolous conduct under 22 NYCRR 130-1.1.
STANDARD OF REVIEW	Abuse of discretion; the court reviewed whether the Supreme Court providently exercised its discretion in imposing counsel-fee sanctions for frivolous conduct.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Helen Darras v. Frank Darras

TOPICS

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

PRACTICE AREAS

family law

sanctions

appellate procedure

QUESTIONS PRESENTED

1. Whether the Supreme Court properly imposed a \$2,500 counsel-fee sanction under 22 NYCRR 130-1.1 based on the defendant's frivolous contempt motion.
2. Whether the defendant's conduct was frivolous because she pursued nearly identical proceedings in Illinois and New York and continued the New York motion after learning that its factual predicate no longer existed.

HOLDINGS

1. The Supreme Court providently exercised its discretion in awarding \$2,500 in counsel fees because the defendant engaged in frivolous conduct by bringing and prosecuting nearly identical proceedings in Illinois and New York and by continuing the motion after learning that its factual predicate no longer existed.

KEY QUOTATIONS

"A court may impose financial sanctions upon a party or attorney who engages in 'frivolous conduct'"
([*1])

"Conduct is frivolous if "(1) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law; (2) it is undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or (3) it asserts material factual statements that are false"" ([*1]-[*2])

"In determining whether the conduct undertaken was frivolous, a court shall consider 'the circumstances under which the conduct took place, including the time available for investigating the legal or factual basis of the conduct, and whether or not the conduct was continued when its lack of legal or factual basis was apparent, should have been apparent, or was brought to the attention of counsel'" ([*2])

FACTUAL BACKGROUND

The parties were divorced by a July 20, 2020 judgment incorporating their December 11, 2019 stipulation of settlement. Helen Darras pursued proceedings in Illinois and then moved in New York to hold Frank Darras in contempt for alleged noncompliance with the stipulation. After Frank's counsel supplied evidence that the claims had already been resolved and that the contempt motion was frivolous, Helen did not withdraw it, prompting Frank to seek counsel fees.

PROCEDURAL HISTORY

The parties' divorce judgment incorporated but did not merge their 2019 stipulation of settlement. After the defendant pursued related proceedings in Illinois and New York concerning alleged noncompliance with the stipulation, the Supreme Court, Suffolk County, found her contempt motion frivolous and ordered her to pay \$2,500 in counsel fees. The Appellate Division affirmed the order insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Weissman v. Weissman, 116 A.D.3d 848, 849
- Finley v. Finley, 233 A.D.3d 654, 655
- Matter of Sottolare v. Fahner, 160 A.D.3d 967, 968

OPINION

PER CURIAM.

Darras v Darras (2026 NY Slip Op 01764) Darras v Darras 2026 NY Slip Op 01764 Decided on March 25, 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 March 25, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department HECTOR D. LASALLE, P.J. CHERYL E. CHAMBERS WILLIAM G. FORD JAMES P. MCCORMACK, JJ. 2024-06735 (Index No. 4320/17) [*1]Frank Darras, respondent, v Helen Darras, appellant.

Mitev Law Firm, P.C., Stony Brook, NY (Vesselin V. Mitev of counsel), for appellant. Tabat, Cohen, Blum, Yovino & Diesa, P.C., Hauppauge, NY (Robert A. Cohen of counsel), for respondent. DECISION & ORDER In a matrimonial action in which the parties were divorced by judgment dated July 20, 2020, the defendant appeals from an order of the Supreme Court, Suffolk County (John J. Leo, J.), dated April 4, 2024.

The order, insofar as appealed from, granted that branch of the plaintiff's cross-motion which was for an award of counsel fees pursuant to 22 NYCRR 130.1-1. ORDERED that the order is affirmed insofar as appealed from, with costs.

The parties were divorced by judgment dated July 20, 2020, which incorporated but did not merge a stipulation of settlement dated December 11, 2019. In April 2022, the defendant filed, in the Circuit Court of the Eleventh Judicial Circuit of Illinois, a motion to compel the plaintiff to fulfill certain obligations as set forth in the stipulation of settlement.

In August 2023, the defendant moved in the Supreme Court, Suffolk County, to hold the plaintiff in contempt for not fulfilling certain obligations set forth in the stipulation of settlement. In an email subsequent to the defendant's motion, the plaintiff's attorney provided evidence to the defendant's attorney that the defendant's contempt motion was frivolous and that all of her claims had been resolved either prior to or during the Illinois litigation.

When the defendant did not withdraw the motion, the plaintiff cross-moved, inter alia, for an award of counsel fees pursuant to 22 NYCRR 130-1.1 and to hold the defendant in contempt. In an order dated April 4, 2024, the Supreme Court, among other things, after a finding that the defendant's motion was frivolous, granted that branch of the cross-motion which was for an award of counsel fees pursuant to 22 NYCRR 130-1.1 and directed the defendant to pay the amount of \$2,500 to the plaintiff's attorneys.

The defendant appeals. "A court may impose financial sanctions upon a party or attorney who engages in 'frivolous conduct'" (*Weissman v Weissman*, 116 AD3d 848, 849, quoting 22 NYCRR 130-1.1[a]). Conduct is frivolous if "(1) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law; (2) it is undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or (3) it asserts material factual statements that are false" (22 NYCRR 130-1.1[c]).

"In [*2]determining whether the conduct undertaken was frivolous, a court shall consider 'the circumstances under which the conduct took place, including the time available for investigating the legal or factual basis of the conduct, and whether or not the conduct was continued when its lack of legal or factual basis was apparent, should have been apparent, or was brought to the attention of counsel'" (*Finley v Finley*, 233 AD3d 654, 655, quoting 22 NYCRR 130-1.1[c]).

Here, the Supreme Court providently exercised its discretion in granting that branch of the plaintiff's cross-motion which was for an award of counsel fees pursuant to 22 NYCRR 130-1.1 based on the frivolous conduct of the defendant in bringing and prosecuting nearly identical proceedings in Illinois and in New York (see *Matter of Sottolare v Fahner*, 160 AD3d 967, 968) and by continuing to pursue a motion after the defendant and her attorney became aware that the factual predicate for the requested relief no longer existed (see *Finley v Finley*, 233 AD3d at 655).

The defendant's remaining contentions are without merit. LASALLE, P.J., CHAMBERS, FORD and MCCORMACK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court