

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

Perez v. City of New York

Perez, 2025 NY Slip Op 06878 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2025) · No. 2022-05556 · Decided December 10, 2025

SUMMARY

The Appellate Division, Second Department, dismissed as nonappealable the portion of an order directing a conference concerning a charging lien and affirmed the order insofar as reviewed. The court held that nonparty attorneys who had never represented the plaintiffs lacked standing to seek disqualification of the plaintiffs' attorney based on an alleged conflict of interest.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Lara J. Genovesi, J.P.; Linda Christopher, J.; Deborah A. Dowling, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 10, 2025
DOCKET	2022-05556
DISPOSITION	dismissed
PROCEDURAL POSTURE	Nonparty attorneys appealed from an order denying their motion to disqualify the plaintiffs' attorney and directing a conference on their request for a charging lien.
PRECEDENTIAL VALUE	published
PARTIES	Kenneth J. Gorman, Wade T. Morris v. John P. DeMaio

TOPICS

- appellate jurisdiction
- interlocutory appeal
- standing
- civil procedure
- appellate procedure

PRACTICE AREAS

- civil procedure
- legal ethics and professional responsibility
- appellate procedure
- municipal law

QUESTIONS PRESENTED

1. Whether the appeal from an order directing a conference on a charging-lien request was appealable as of right.
2. Whether nonparties who had never been clients of the attorney sought to be disqualified had standing to seek that attorney's disqualification based on an alleged conflict of interest.

HOLDINGS

1. An order directing a conference on a charging-lien request, without disposing of that branch of the motion or affecting a substantial right, is not appealable as of right; because leave to appeal was not granted, the appeal from that portion of the order was dismissed.
2. A party who was never a current or former client of the attorney sought to be disqualified lacks standing to move for that attorney's disqualification based on an alleged conflict of interest.

KEY QUOTATIONS

“So much of the order as directed a conference on that branch of the motion of nonparties Kenneth J. Gorman and Wade T. Morris which was for a charging lien did not dispose of that branch of the motion and did not affect a substantial right and, therefore, is not appealable as of right” ([*1])

“Since Gorman and Morris were neither present nor former clients of DeMaio, they lacked standing to seek his disqualification as the attorney for the plaintiffs in the action” ([*2])

FACTUAL BACKGROUND

The underlying action sought damages for personal injuries and wrongful death. Nonparties Kenneth J. Gorman and Wade T. Morris sought to disqualify John P. DeMaio from representing the plaintiffs based on an alleged conflict of interest. It was undisputed that Gorman and Morris had never been clients of DeMaio.

PROCEDURAL HISTORY

In a personal-injury and wrongful-death action pending in Supreme Court, Queens County, nonparties Kenneth J. Gorman and Wade T. Morris moved to disqualify nonparty John P. DeMaio as counsel for the plaintiffs and sought a charging lien. The Supreme Court denied the disqualification request and directed a conference concerning the charging-lien request. The Appellate Division dismissed the portion of the appeal concerning the conference and affirmed the order insofar as reviewed.

DISPOSITION

dismissed

CASES CITED

- Schaff v. Schaff, 172 A.D.3d 1421, 1422
- Dowd v. Dowd, 74 A.D.3d 1013, 1014
- Sloboda v. Sloboda, 24 A.D.3d 533, 534

- Ellison v. Chartis Claims, Inc., 142 A.D.3d 487, 487-488
- Ogilvie v. McDonald's Corp., 294 A.D.2d 550, 552
- Rowley v. Waterfront Airways, 113 A.D.2d 926, 927

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/supreme-court-of-the-state-of-new-york-appellate-division-second-judicial-department-supreme-court-o/2025/perez-v-city-of-new-york-x5oagjhr>