

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

**Khan v. Santana**

Khan, 2026 NY Slip Op 03432 (Supreme Court of the State of New York Appellate Division Second Judicial  
Department 2026) · No. 2024-07604 · Decided June 3, 2026

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**SUMMARY**

The Appellate Division, Second Department, affirmed an order granting the defendant's motion to vacate an earlier order that had restored the plaintiff's personal-injury action to the active calendar. The court held that the defendant was required to show a reasonable excuse for defaulting in opposition and a potentially meritorious opposition, and concluded that the Supreme Court properly granted the motion under CPLR 5015(a)(1).

**OPINION**

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PER CURIAM.

Khan v Santana - 2026 NY Slip Op 03432 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Khan v Santana 2026 NY Slip Op 03432 June 3, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. Raymond Khan, appellant, v Nelson Santana, respondent. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 3, 2026 2024-07604, (Index No. 525439/20) Mark C. Dillon, J.P. Lara J. Genovesi Donna-Marie E. Golia Phillip Hom, JJ. Bogoraz Law Group, P.C. (Pollack, Pollack, Isaac & DeCicco, LLP, New York, NY [Brian J. Isaac and Lori E. Parkman], of counsel), for appellant. Nancy L. Isserlis (The Zweig Law Firm, P.C., Cedarhurst, NY [Jonah S. Zweig], of counsel), for respondent. [\*1] DECISION & ORDER In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Richard Velasquez, J.), dated March 13, 2024. The order, insofar as appealed from, granted the defendant's motion to vacate an order of the same court (Sharon A. Bourne-Clarke, J.) dated March 1, 2023, granting the plaintiff's unopposed motion (1) to vacate an order of the same court (Joy F. Campanelli, J.) dated November 2, 2022, which granted that branch of the defendant's motion which was pursuant to CPLR 3215(c) to dismiss the complaint as abandoned, and (2) to restore the case to the active calendar. ORDERED that order dated March 13, 2024, is affirmed insofar as appealed from, with costs. The plaintiff allegedly was

injured in 2017 due to a motor vehicle collision between a vehicle he was operating and a vehicle operated by the defendant. In August 2020, the plaintiff commenced an action to recover damages for personal injuries against the defendant. Ultimately, that action was dismissed. In December 2020, the plaintiff commenced this action to recover damages for personal injuries against the defendant. In June 2022, the defendant moved, inter alia, pursuant to CPLR 3215(c) to dismiss the complaint as abandoned. Although the plaintiff submitted opposition papers, his attorney failed to appear at the calendar call and, by order dated November 2, 2022 (hereinafter the dismissal order), the Supreme Court granted that branch of the defendant's motion which was pursuant to CPLR 3215(c) to dismiss the complaint as abandoned. The plaintiff moved pursuant to CPLR 5015 to vacate the dismissal order and to restore the action to the active calendar. By order dated March 1, 2023 (hereinafter the March 2023 order), the Supreme Court granted the plaintiff's unopposed motion. The defendant moved to vacate the March 2023 order. The plaintiff opposed the defendant's motion. In an order dated March 13, 2024, the Supreme Court, inter alia, granted the defendant's motion. The plaintiff appeals. "Under CPLR 5015(a), a court is empowered to vacate a default judgment [or order] for several reasons, including excusable neglect; newly-discovered evidence; fraud, misrepresentation or other misconduct by an adverse party; lack of jurisdiction; or upon the reversal, modification or vacatur of a prior order" ( *Woodson v Mendon Leasing Corp.* , 100 NY2d 62, 68 ). Since the defendant sought to vacate the March 2023 order granting the plaintiff's unopposed motion, the defendant was required to demonstrate both a reasonable excuse for his default in opposing the plaintiff's motion and a potentially meritorious opposition ( see *World O World Corp. v Anoufrieve* , 163 AD3d 610 , 611). "Whether a proffered excuse is reasonable is a sui generis determination to be made by the court based on all relevant factors, including the extent of the delay, whether there has been prejudice to the opposing party, whether there has been willfulness, and the strong public policy in favor of resolving cases on the merits" ( *id.* [internal quotation marks omitted]). Here, the Supreme Court properly granted the defendant's motion ( see CPLR 5015[a][1]). The appellant's remaining contentions are without merit. Accordingly, we affirm the order dated March 13, 2024, insofar as appealed from. DILLON, J.P., GENOVESI, GOLIA and HOM, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.