

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Matter of Stanley Walker, Deceased

2026 NY Slip Op 00437 · No. Appeal Nos. 5709-5710; Case Nos. 2024-04355, 2024-04356; File Nos. 4613/15,
4613A/15 · Decided January 29, 2026

SUMMARY

The Appellate Division, First Department affirmed orders denying Janet Mecca's efforts to renew or reargue a motion concerning a revocable trust proceeding and to vacate her waiver and consent to probate of Stanley Walker's will. The court held that Mecca lacked standing, failed to establish fraud or lack of testamentary capacity, and did not present new facts warranting renewal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Kapnick, J.; González, J.; Shulman, J.; O'Neill Levy, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	January 29, 2026
DOCKET	Appeal Nos. 5709-5710; Case Nos. 2024-04355, 2024-04356; File Nos. 4613/15, 4613A/15
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner Janet Mecca appealed orders of the Surrogate's Court, New York County, denying relief concerning a proceeding to set aside a revocable trust and to vacate her waiver and consent to probate of Stanley Walker's will and the decree admitting that will to probate.
STANDARD OF REVIEW	The Appellate Division reviewed the Surrogate's Court's determinations concerning standing, fraud, testamentary capacity, and renewal for legal and evidentiary sufficiency; the opinion does not state a separately labeled standard of review.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Janet Mecca v. Mary Djurasavic

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QUESTIONS PRESENTED

1. Whether Mecca had standing to contest probate of Walker's will or the revocable trust when she had no interest under any prior will or version of the trust.
2. Whether Mecca presented clear and convincing evidence that her waiver and consent to probate were procured by fraud.
3. Whether Mecca presented evidence that Walker lacked testamentary capacity when he executed the will and trust agreement.
4. Whether renewal was warranted under CPLR 2221(e) based on new facts that would change the prior determination.
5. Whether the portion of the order denying reargument was appealable.

HOLDINGS

1. Mecca lacked standing to contest probate of the June 12, 2015 will or the Stanley Walker Revocable Trust because she had no interest in any prior will or version of the trust.
2. Mecca failed to establish by clear and convincing evidence that her waiver and consent to probate were procured by fraud.
3. Mecca failed to present evidence that Walker lacked testamentary capacity when he executed the will and trust agreement.
4. Renewal was properly denied because Mecca identified no new facts that had not been offered on the prior motion and that would change the prior determination.
5. The appeal from the portion of the order denying reargument was dismissed because that portion constituted a nonappealable order.

FACTUAL BACKGROUND

Stanley Walker's June 12, 2015 will and revocable trust intentionally made no provision for his sibling Janet Mecca or her children because Walker purportedly had no meaningful relationship with them. Walker left his residuary estate to the trust and appointed Mary Djurasavic as sole executor and co-trustee, while also giving her his tangible personal property and the trust residuary. Mecca had executed a waiver and consent to probate after receiving the will, trust documents, and waiver form more than two weeks earlier, but later alleged that Djurasavic misrepresented the estate's size and Walker's testamentary capacity. Mecca acknowledged that she had not seen or spoken with Walker for decades before his death.

PROCEDURAL HISTORY

The Surrogate's Court denied Mecca's motion to renew or reargue Mary Djurasavic's motion to dismiss the proceeding to set aside the revocable trust and denied without prejudice Mecca's procedurally improper cross-motion to vacate her waiver and consent to probate. The court later denied Mecca's motion to vacate the waiver and consent and the decree admitting the June 12, 2015 will to probate. The Appellate Division affirmed the orders to the extent appealable, dismissing the reargument portion as taken from a nonappealable order.

DISPOSITION

other

CASES CITED

- Matter of Brown, 144 AD3d 587, 587 (1st Dept 2016)
- Matter of Ramm v Allen, 118 AD3d 708, 709-710 (2d Dept 2014)
- Matter of Bobst, 165 Misc 2d 776, 783 (Sur Ct, NY County 1995), affd 234 AD2d 7 (1st Dept 1996), lv dismissed 90 NY2d 844 (1997)
- Mandarin Trading Ltd v Wildenstein, 16 NY3d 173, 178 (2011)
- Matter of Schlaeger, 74 AD3d 405, 406 (1st Dept 2010)