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

Brennan v. Vasquez

Brennan, 2026 NY Slip Op 00115 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2023-06275 · Decided January 14, 2026

SUMMARY

The Appellate Division, Second Department reversed a judgment holding Jorge A. Vasquez liable for breach of fiduciary duty and remitted the matter for a new trial. The court held that factual disputes concerning Vasquez's alleged conflict of interest, knowledge of the transaction, and advice regarding an unsecured loan should have been submitted to the jury rather than resolved through a CPLR 4401 motion for judgment as a matter of law.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Barry E. Warhit, J.; Lillian Wan, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	January 14, 2026
DOCKET	2023-06275
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Jorge A. Vasquez appealed from a judgment entered after a jury trial in an action alleging, among other claims, breach of fiduciary duty and conversion. The trial court granted the plaintiff judgment as a matter of law under CPLR 4401 on liability for breach of fiduciary duty against Vasquez, and the jury subsequently returned a verdict on the remaining claims.
STANDARD OF REVIEW	A CPLR 4401 motion for judgment as a matter of law is appropriate only where, upon the evidence presented, there is no rational process by which the fact finder could find for the nonmoving party. The evidence must be viewed in the light most favorable to the nonmoving party, and the motion should not be granted where facts are disputed, different inferences may be drawn, or witness credibility is at issue.

PRECEDENTIAL VALUE	Published
PARTIES	Jorge A. Vasquez v. James Brennan

TOPICS

appellate procedure · standard of review · motion for directed verdict · commercial litigation · real estate

PRACTICE AREAS

civil procedure · commercial litigation · legal malpractice and attorney fiduciary duties · real estate

QUESTIONS PRESENTED

1. Whether the Supreme Court properly granted Brennan's CPLR 4401 motion for judgment as a matter of law on liability for breach of fiduciary duty against Vasquez.
2. Whether the conflicting evidence concerning Vasquez's knowledge, alleged conflict of interest, advice to Brennan, and Brennan's reliance required the breach-of-fiduciary-duty claim to be submitted to the jury.

HOLDINGS

1. The CPLR 4401 motion should have been denied because the evidence permitted a rational jury to find for Vasquez, and factual disputes, competing inferences, and credibility issues remained.
2. A breach-of-fiduciary-duty claim requires a fiduciary relationship, misconduct by the defendant, and damages directly caused by the misconduct.

KEY QUOTATIONS

> *“A trial court's grant of a CPLR 4401 motion for judgment as a matter of law is appropriate where the trial court finds that, upon the evidence presented, there is no rational process by which the fact trier could base a finding in favor of the nonmoving party”* (*1)

> *“Moreover, "the motion should not be granted where the facts are in dispute, where different inferences may be drawn from the evidence, or where the credibility of the witnesses is in question"”* (*1)

> *“The elements of a cause of action alleging breach of fiduciary duty are "(1) the existence of a fiduciary relationship, (2) misconduct by the defendant, and (3) damages directly caused by the defendant's misconduct"”* (*1)

FACTUAL BACKGROUND

In 2016, James Brennan hired Jorge A. Vasquez, then a licensed New York attorney, to represent him in the sale of his home. After the closing, Vasquez drafted a promissory note memorializing a $300,000 loan from Brennan's corporation to Ariel A. Del Gobbo and Delgobbo & Associates, Inc.; the loan was intended to help open a real estate office. The funds were transferred through Vasquez's IOLTA account, and Del Gobbo later transferred the money to Vasquez to open Exit Realty Direct, where Vasquez would serve as broker. The trial evidence conflicted as to when Vasquez learned that Del Gobbo lacked a broker's license, whether Brennan knew of Vasquez's involvement, and whether Brennan relied on Vasquez's characterization of the loan as a safe investment.

PROCEDURAL HISTORY

James Brennan sued Jorge A. Vasquez and other defendants over a $300,000 transaction connected to the opening of a real estate office. At trial, the Supreme Court, Queens County, granted Brennan's CPLR 4401 motion on liability for breach of fiduciary duty against Vasquez. The jury found for Vasquez on the remaining causes of action and found against another defendant on conversion; the Supreme Court entered a $295,500 judgment against the defendants jointly and severally. The Appellate Division reversed insofar as appealed from and remitted for a new trial on the breach-of-fiduciary-duty cause of action.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remitted to the Supreme Court, Queens County, for a new trial on the cause of action alleging breach of fiduciary duty against Jorge A. Vasquez. The CPLR 4401 motion for judgment as a matter of law on liability was denied.

CASES CITED

- Whitehall v Andrade, 231 AD3d 1094, 1095
- Countrywide Home Loans, Inc. v Gibson, 157 AD3d 853, 855
- Szczerbiak v Pilat, 90 NY2d 553, 556
- Chicoine v Mendola, 233 AD3d 841, 843
- Cioffi v Klein, 131 AD3d 914, 915-916
- Caccese v Liebherr Container Cranes, Ltd., 149 AD3d 688, 689
- 374-76 Prospect Place Tenants Assn., Inc. v City of New York, 231 AD3d 911, 914
- Stinner v Epstein, 162 AD3d 819, 820
- Village of Kiryas Joel v County of Orange, 144 AD3d 895, 898
- Matter of Cooperman, 83 NY2d 465, 472
- Saint Annes Dev. Co. v Batista, 165 AD3d 997, 997-998
- Jay Deitz & Assoc. of Nassau County, Ltd. v Breslow & Walker, LLP, 153 AD3d 503, 505
- C.K. Rehner, Inc. v Arnell Constr. Corp., 303 AD2d 439, 440