

***State of New York
Court of Appeals***

*Decided and Entered on the
twenty-eighth day of April, 2022*

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

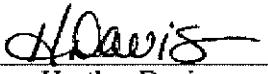
Mo. No. 2022-133
Robert Budwilowitz,
Appellant,
v.
Marc Nichols Associates et al.,
Respondents.

Appellant having moved for reargument in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, that the motion is denied.

Judge Troutman took no part.



Heather Davis
Deputy Clerk of the Court

***State of New York
Court of Appeals***

*Decided and Entered on the
twenty-eighth day of April, 2022*

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

Mo. No. 2022-133

Robert Budwiltowitz,
Appellant,

v.

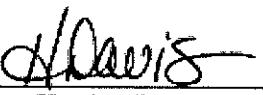
Marc Nichols Associates et al.,
Respondents.

Appellant having moved for reargument in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, that the motion is denied.

Judge Troutman took no part.



Heather Davis
Deputy Clerk of the Court

***State of New York
Court of Appeals***

*Decided and Entered on the
sixth day of January, 2022*

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

Mo. No. 2021-760

Robert Budwilositz,
Appellant,

v.

Marc Nichols Associates et al.,
Respondents.

Appellant having appealed and moved for leave to appeal to the Court of Appeals in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, on the Court's own motion, that the appeal, insofar as taken from the July 2021 Appellate Division order is dismissed, without costs, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution; and it is further

ORDERED, that the appeal, insofar as taken from the June 2021 Appellate Division order, is dismissed, without costs, upon the ground that no appeal lies from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question; and it is further

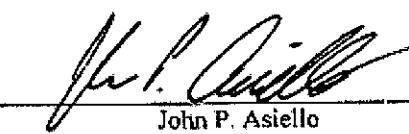
ORDERED, that the motion, insofar as it seeks leave to appeal from the July 2021 Appellate Division order, is dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution; and it is further

Appendix B Decision of New York State Court of Appeals motion for leave to appeal

Mo. No. 2021-760

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ORDERED, that the motion, insofar as treated as seeking leave to appeal from the June 2021 Appellate Division order, is otherwise denied.



John P. Asciello
Clerk of the Court

Appendix C Decision of State Trial Court; First Appellate Division of the Supreme Court.

FILED: APPELLATE DIVISION - 1ST DEPT 06/01/2021 09:55 AM
NYSCEF DOC. NO. 11 **Supreme Court of the State of New York**
EDIFIED NYSCEF: 06/01/2021

2020-00857

Appellate Division, First Judicial Department

Gische, J.P., Webber, Singh, Kennedy, JJ.

13967

ROBERT BUDWILOWITZ,
Plaintiff-Appellant,

Index No. 101292/16
Case No. 2020-00857

-against-

MARC NICHOLS ASSOCIATES, et al.,
Defendants-Respondents.

Robert Budwilowitz, appellant pro se.

Appeal from order, Supreme Court, New York County (Robert R. Reed, J.), entered October 11, 2019, which sua sponte dismissed the complaint for failure to comply with a prior order, unanimously dismissed, without costs.

The sua sponte order is not appealable as of right (see CPLR 5701[a][2]; *Sholes v Meagher*, 100 NY2d 333, 335 [2003]). Plaintiff's remedy was to move to vacate the order, and if that was denied, to appeal the denial of his motion to vacate (*id*; *see also Figiel v Met Food*, 48 AD3d 330 [1st Dept 2008]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: June 1, 2021



Susanna Molina Rojas
Clerk of the Court

Appendix D Sua sponte order Supreme Court New York County and dismissal of the case.

STANDARD ORDER DATED 10/06/01 AND 10/02/01

Page 1 of 2

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THE SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ROBERT R. REED
J.S.C. Justice

PART 43

Budwicowitz, Robert

INDEX NO. 101292/2016

MOTION DATE 10/10/19

MOTION SEQ. NO. 1

Marc Nichols Associate

The following papers, numbered 1 to 1, were read on this motion to for

Notice of Motion/Order to Show Cause — Affidavits — Exhibits

No(s).

Answering Affidavits — Exhibits

No(s).

Replying Affidavits

No(s).

It is hereby

ORDERED that this matter is DISMISSED for failure to comply with this Court's order dated August 6, 2019.

FILED

OCT 11 2019

COUNTY CLERK'S OFFICE
NEW YORK

NOTICE CASE IS REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 10/10/19



J.S.C.

1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: GRANTED DENIED GRANTED IN PART OTHER
3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
 DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. ROBERT R. REED
J.S.C.
JusticePART 43Budwicowitz, RobertINDEX NO. 101291/206Man. Nichols Associates

MOTION DATE _____

MOTION SEQ. NO. _____

The following papers, numbered 1 to _____, were read on this motion to/for:
Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____
Answering Affidavits — Exhibits _____
Replying Affidavits _____

No(s). _____

No(s). _____

No(s). _____

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

The defendant having failed, without reasonable excuse, to appear at a status conference in Part 43 on August 1, 2019 at 11:00 a.m. pursuant to this Court's decision and order dated July 5, 2019 and the defendant having failed, without reasonable excuse, to appear at a previous status conference in this Part on January 10, 2019, it is hereby

ORDERED that, pursuant to Uniform Rule 202.27, the defendant is in default and the answer of defendant is stricken; and it is further

ORDERED that, on or before August 30, 2019, plaintiff shall serve a copy of this order with notice of entry upon, and file a note of issue and statement of readiness with, the Clerk of the General Clerk's Office (60 Centre Street, Room 119), and pay for the fee therefor; and it is further

ORDERED that, upon said filing and the payment of the appropriate fee, the Clerk shall place this matter upon the trial calendar for an inquest as to damages.

FILED

AUG 9 2019

COUNTY CLERK'S OFFICE
NEW YORKDated: 8/6/19

J.S.C.

1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION

2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER

3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER

DO NOT POST FIDUCIARY APPOINTMENT REFERENCE