

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

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CA 22-01117

PRESENT: SMITH, J.P., PERADOTTO, CURRAN, MONTOUR, AND OGDEN, JJ.

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FUSION FUNDING, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

LOFTTI INC., DOING BUSINESS AS LOFTTI CAFE,  
DEFENDANT,  
AND PAUL KIM, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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THE LINDEN LAW GROUP, P.C., NEW YORK CITY (JEFFREY BENJAMIN OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

WELLS LAW P.C., LANCASTER (JAMES M. SPECYAL OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order and judgment (one paper) of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered June 24, 2022. The order and judgment denied the motion of defendant Paul Kim to vacate a default judgment and imposed monetary sanctions upon defendant Paul Kim.

It is hereby ORDERED that the order and judgment so appealed from is unanimously modified on the law by vacating that part granting sanctions and as modified the order and judgment is affirmed without costs.

Same memorandum as in *Fusion Funding v Loftti Inc.* ([appeal No. 1] - AD3d - [May 5, 2023] [4th Dept 2023]).

Entered: May 5, 2023

Ann Dillon Flynn  
Clerk of the Court