

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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Submitted - June 19, 2006

HOWARD MILLER, J.P.
DANIEL F. LUCIANO
REINALDO E. RIVERA
ROBERT A. SPOLZINO, JJ.

2004-02111

DECISION & ORDER

Bank of America, NA, respondent, v Daniel M.
Tobin, et al., defendants; Veronica Ann Tobin, s/h/a
John Doe, appellant.

(Index No. 8849/02)

Veronica Ann Tobin, Middletown, N.Y., appellant pro se.

Shapiro & DiCaro, LLP, Rochester, N.Y. (Robert S. Leni of counsel), for respondent.

In an action to foreclose a mortgage, Veronica Ann Tobin, s/h/a John Doe, appeals from an order of the Supreme Court, Orange County (Berry, J.), dated February 4, 2004, which, after a hearing to determine the validity of service of process, denied her motion to vacate a judgment of foreclosure and sale of the same court entered July 28, 2003, upon her failure to appear or answer, and to set aside the referee's sale on the ground that she was not properly served with the summons and complaint.

ORDERED that the order is affirmed, without costs or disbursements.

October 10, 2006

BANK OF AMERICA, NA v TOBIN

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Contrary to the appellant's contentions, the record supports the Supreme Court's determination that personal jurisdiction was acquired over the appellant by proper service pursuant to CPLR 308(1).

MILLER, J.P., LUCIANO, RIVERA and SPOLZINO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court