

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

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_____AD3d_____

Submitted - September 13, 2006

ROBERT W. SCHMIDT, J.P.
DAVID S. RITTER
WILLIAM F. MASTRO
STEVEN W. FISHER
MARK C. DILLON, JJ.

2006-00742

DECISION & ORDER

In the Matter of Gina Kussman, respondent, v
GiveAnything.com, Inc., et al., appellants.

(Index No. 16047/05)

Agovino & Asselta, LLP, Mineola, N.Y. (Mark I. Zelko of counsel), for appellants.

Martin J. Murray, New York, N.Y., for respondent.

In a proceeding, inter alia, pursuant to CPLR 3102(c) to obtain pre-action disclosure, GiveAnything.com, Inc., Universal Certificate Group, LLC, George Brookshire, a/k/a Edward Brookshire, and Steve Perry appeal from an order of the Supreme Court, Nassau County (Bucaria, J.), entered January 9, 2006, which granted the petition.

ORDERED that the order is reversed, on the law and in the exercise of discretion with costs, the petition is denied, and the proceeding is dismissed.

The Supreme Court improvidently exercised its discretion in granting the petition because, inter alia, the discovery requested was not limited to obtaining the identities of prospective defendants and the petitioner had sufficient information to frame a complaint without the discovery requested (*see* CPLR 3102[c]; *Matter of Rann v Metropolitan Transp. Auth.*, 22 AD3d 586, 586-587; *cf. Matter of Toal v Staten Is. Univ. Hosp.*, 300 AD2d 592; *Matter of Stewart v New York City*

October 31, 2006

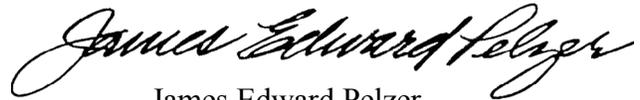
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MATTER OF KUSSMAN v GiveANYTHING.COM, INC.

Tr. Auth., 112 AD2d 939, 940; *Matter of Corigliano*, 76 AD2d 886; *Matter of Houlihan-Parnes, Realtors*, 58 AD2d 629, 630; *Patterns Unlimited v Weiss*, 36 AD2d 859).

SCHMIDT, J.P., RITTER, MASTRO, FISHER and DILLON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court