

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

D12443  
O/cb

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Submitted - September 13, 2006

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

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2005-07410

DECISION & ORDER

Theresa Scrimenti, appellant, v Dry Harbor  
Nursing Home, et al., respondents.

(Index No. 27615/97)

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William M. Ezersky, New Hyde Park, N.Y., for appellant.

Perez, Furey & Varvaro, Uniondale, N.Y. (James F. Furey of counsel), for  
respondents.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited  
by her brief, from so much of an order of the Supreme Court, Queens County (Kitzes, J.), dated June  
23, 2005, as granted the defendants' motion to dismiss the complaint pursuant to CPLR 3215(c) as  
abandoned.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The plaintiff failed to seek entry of a default judgment within one year following the  
defendants' default in answering the complaint. Thus, the complaint was subject to dismissal unless  
the plaintiff could establish a reasonable excuse for the delay and the existence of a meritorious cause  
of action (*see McGovern v O'Connor*, 256 AD2d 501; *Blades v Butler Cab Corp.*, 176 AD2d 698,  
699; *Rendelman v Southside Hosp.*, 141 AD2d 521, 522). The plaintiff failed to provide a reasonable  
excuse for the more than six-year delay in seeking to enter a default judgment (*see Perricone v New*

November 8, 2006

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*York*, 62 NY2d 661, 663; *Wilson v Massapequa Gen. Hosp.*, 180 AD2d 791; *Rafiq v Weston*, 171 AD2d 783, 784; *Monzon v Sony Motor*, 115 AD2d 714). Accordingly, the Supreme Court providently exercised its discretion in granting the defendants' motion to dismiss the complaint pursuant to CPLR 3215(c) as abandoned.

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

ENTER:

  
James Edward Pelzer  
Clerk of the Court