

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

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_____AD3d_____

Submitted - October 11, 2006

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

2005-09830

DECISION & ORDER

Steven Krisztin, appellant, v State of New York,
respondent.

(Claim No. 103363)

Rovegno & Taylor, P.C., Forest Hills, N.Y. (Robert B. Taylor of counsel), for appellant.

Eliot Spitzer, Attorney-General, Albany, N.Y. (Patrick Barnett-Mulligan and Julie S. Mereson of counsel), for respondent.

In a claim to recover damages for personal injuries, the claimant appeals from an order of the Court of Claims (Nadel, J.), dated September 2, 2005, which denied his motion, inter alia, to vacate an order of the same court dated November 29, 2004, granting, upon his default in appearing at a scheduled conference, the defendant's motion to dismiss the claim pursuant to 22 NYCRR 206.10(g).

ORDERED that the order is affirmed, with costs.

In moving to vacate the order granting the defendant's motion to dismiss his claim, the claimant was required to establish both a reasonable excuse for his default and a meritorious claim (*see* CPLR 5015 [a] [1]; *Blumberg v State of New York*, 208 AD2d 581). The claimant failed to demonstrate that he has a potentially meritorious claim. Accordingly, the Court of Claims providently

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exercised its discretion in denying the claimant's motion.

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, flowing style.

James Edward Pelzer
Clerk of the Court