

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

D12827
E/cb

_____AD3d_____

Submitted - September 27, 2006

THOMAS A. ADAMS, J.P.
GABRIEL M. KRAUSMAN
REINALDO E. RIVERA
ROBERT A. LIFSON, JJ.

2005-09882

DECISION & ORDER

In the Matter of Mobilevision Medical Imaging
Services, LLC, respondent, v Sinai Diagnostic &
Interventional Radiology, P.C., appellant.

(Index No. 12289/05)

Yevgeny Tsyngauz, Brooklyn, N.Y., for appellant.

Ilissa Brownstein, New York, N.Y., for respondent.

In a proceeding pursuant to CPLR article 75 to confirm an arbitrator's award, Sinai Diagnostic & Interventional Radiology, P.C., appeals from an order of the Supreme Court, Kings County (F. Rivera, J.), dated September 16, 2005, which denied its motion to vacate an oral decision of the same court dated June 17, 2005, directing that the petition be granted upon its failure to appear or answer the petition.

ORDERED that the appeal is dismissed, without costs or disbursements.

It appears from the record that on June 17, 2005, the court determined that the petition to confirm the arbitrator's award should be granted, upon the appellant's default. However, the court did not issue an order to that effect at the time the subject motion was made. This appeal

November 28, 2006

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must therefore be dismissed, as no appeal lies from an order denying a motion to vacate a decision (see *Vaglica v Homeyer*, 30 AD3d 587; *Behrens v Behrens*, 143 AD2d 617).

ADAMS, J.P., KRAUSMAN, RIVERA and LIFSON, 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