

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

D12942
G/cb

_____AD3d_____

Submitted - November 20, 2006

THOMAS A. ADAMS, J.P.
DAVID S. RITTER
STEVEN W. FISHER
JOSEPH COVELLO, JJ.

2005-04007

DECISION & ORDER

Adeline Latopolski, etc., appellant, v William
John Rudge IV, etc., et al., respondents.

(Index No. 31370/02)

Greshin, Ziegler & Amicizia, LLP, Smithtown, N.Y. (Vincent M. Amicizia of
counsel), for appellant.

Brody, O'Connor, O'Connor & Greenfield, Northport, N.Y. (Scott A. Brody of
counsel), for respondents.

In an action, inter alia, to set aside a deed on the grounds of forgery and undue
influence, the plaintiff appeals, as limited by her brief, from so much of an order of the Supreme
Court, Suffolk County (Werner, J.), dated January 6, 2005, as granted that branch of the defendants'
motion which was for summary judgment dismissing the cause of action alleging forgery and denied
her cross motion for summary judgment.

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

The plaintiff seeks, inter alia, to set aside a deed transferring title to certain parcels of
real property from her mother to her brother, both now deceased. The Supreme Court correctly
denied the plaintiff's motion for summary judgment on her cause of action alleging undue influence
as issues of fact exist as to whether undue influence was exerted to procure the transfer (*see Casucci*
v Casucci, 8 AD3d 523).

December 5, 2006

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The Supreme Court properly granted that branch of the defendants' motion which was for summary judgment dismissing the cause of action alleging forgery. The defendants established their prima facie entitlement to judgment as a matter of law dismissing that cause of action, and the plaintiff failed to raise a triable issue of fact in opposition thereto (*cf. Karan v Hoskins*, 22 AD3d 638, 639).

ADAMS, J.P., RITTER, FISHER and COVELLO, 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