

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

D13308  
G/nl

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - November 21, 2006

HOWARD MILLER, J.P.  
STEPHEN G. CRANE  
ROBERT A. LIFSON  
MARK C. DILLON, JJ.

2006-01466

DECISION & ORDER

County of Nassau, appellant, v Patrick Long, respondent,  
et al., defendant.

(Index No. 12846/05)

Lorna B. Goodman, County Attorney, Mineola, N.Y. (Gerald R. Podlesak of counsel), for appellant.

Michael A. Montesano, P.C., Glen Cove, N.Y. (Theresa Vazquez of counsel), for respondent.

In a civil forfeiture action pursuant to the Administrative Code of the County of Nassau § 8-7.0(g), the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Nassau County (Phelan, J.), entered January 30, 2006, as granted that branch of the defendant Patrick Long's motion which was to dismiss the complaint insofar as asserted against him for lack of personal jurisdiction.

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

Contrary to the plaintiff's contention, the Supreme Court properly concluded that the attempts to serve the defendant Patrick Long at his residence did not satisfy the "due diligence" requirement for so-called "nail and mail" service under CPLR 308(4). Here, the attempts preceding service were made on August 18, 2005, a Thursday, at 7:00 P.M., August 19, 2005, at 3:45 P.M., and August 23, 2005, a Tuesday, at 7:44 P.M. These attempts were made on weekdays during hours when it reasonably could have been expected that Long was either working or in transit to or from work (*see County of Nassau v Letosky*, \_\_\_\_\_AD3d\_\_\_\_\_ [2d Dept, Nov. 8, 2006];

December 26, 2006

Page 1.

COUNTY OF NASSAU v LONG

*O'Connell v Post*, 27 AD3d 630, 631). Moreover, there is no indication that the process server made any attempt to locate Long's business address or to effectuate personal service thereat (*see County of Nassau v Letosky, supra; Sanders v Elie*, 29 AD3d 773, 774). Accordingly, the Supreme Court properly granted that branch of Long's motion which was to dismiss the complaint insofar as asserted against him for lack of personal jurisdiction.

MILLER, J.P., CRANE, LIFSON 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