

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

D13362  
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Submitted - November 28, 2006

HOWARD MILLER, J.P.  
REINALDO E. RIVERA  
PETER B. SKELOS  
ROBERT J. LUNN, JJ.

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2005-04181

DECISION & ORDER

Stephanie Gallagher, et al., respondents, v Rafael  
V. Roman, defendant, Julio Reyes, appellant.

(Index No. 14354/03)

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William T. Barbara, Pelham, N.Y., for appellant.

Charles Gallagher and Stephanie Gallagher, Pelham, N.Y., respondents pro se.

In an action, inter alia, to compel specific performance of a right of first refusal to purchase real property and to recover damages for breach of a lease, the defendant Julio Reyes appeals from an order of the Supreme Court, Westchester County (LaCava, J.), dated March 28, 2005, which denied his motion, in effect, for leave to reargue his prior motion, determined in an order dated November 16, 2004, to direct the plaintiffs to post a bond. Motion by the plaintiffs to dismiss the appeal on the ground that no appeal lies from an order denying leave to reargue. By decision and order on motion of this court dated January 18, 2006, the motion to dismiss the appeal was held in abeyance and referred to the Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, the papers filed in opposition thereto, and upon the argument of the appeal, it is,

ORDERED that the motion is granted; it is further,

ORDERED that the appeal from the order dated March 28, 2005, is dismissed, without costs or disbursements, as no appeal lies from an order denying leave to reargue (*see Rosenfeld v Community School Dist. 28*, 25 AD3d 596).

MILLER, J.P., RIVERA, SKELOS and LUNN, 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