

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

D13431  
C/hu

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

Submitted - December 6, 2006

HOWARD MILLER, J.P.  
ROBERT A. SPOLZINO  
GABRIEL M. KRAUSMAN  
STEVEN W. FISHER  
MARK C. DILLON, JJ.

---

2005-09312

DECISION & ORDER

Sharon Spinardi, plaintiff, v Jeffrey Spinardi,  
appellant; David Halperin, P.C., nonparty-  
respondent.

(Index No. 21388/87)

---

Charles Spinardi, Brooklyn, N.Y., for appellant.

Halperin & Halperin, P.C., New York, N.Y. (David Halperin of counsel), for  
nonparty-respondent.

In an action for a divorce and ancillary relief, the defendant appeals, as limited by his brief, from so much of an order of the Supreme Court, Kings County (Prus, J.), dated September 26, 2005, as denied his motion to vacate a judgment of the same court (Rigler, J.), dated May 11, 1994, which was in favor of the plaintiff's counsel, David Halperin, P.C., and against him in the principal sum of \$45,000.

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

The Supreme Court providently exercised its discretion in denying the defendant's motion to vacate the judgment (*see* CPLR 5015[a][1]; *McClaren v Bell Atl.*, 30 AD3d 569; *Kurtz v Mitchell*, 27 AD3d 697; *Han v Chungwon Bark*, 25 AD3d 586; *Dessain v Franklin*, 25 AD3d 749; *Roussodimou v Zafiriadis*, 238 AD2d 568, 568-569).

January 16, 2007

Page 1.

SPINARDI v SPINARDI

The defendant's remaining contentions either are improperly raised for the first time on appeal or are without merit.

MILLER, J.P., SPOLZINO, KRAUSMAN, FISHER and DILLON, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer  
Clerk of the Court