

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

D14269
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Submitted - February 2, 2007

STEPHEN G. CRANE, J.P.
GABRIEL M. KRAUSMAN
EDWARD D. CARNI
THOMAS A. DICKERSON, JJ.

2005-11967

DECISION & ORDER

Joanne Catania, respondent, v Anthony J. DeCintio,
defendant third-party plaintiff-appellant, Andrew J.
Schatkin, third-party defendant-respondent.

(Index No. 13972-98)

Anthony J. DeCintio, Tuckahoe, N.Y., appellant pro se.

Phillips, Weiner & Quinn, Lindenhurst, N.Y. (James A. McDonough of counsel), for
respondent.

In an action to recover damages for legal malpractice, the defendant third-party plaintiff appeals from an order of the Supreme Court, Suffolk County (Cohalan, J.), dated November 2, 2005, which denied his motion to vacate a prior order of the same court entered October 21, 2002, which, upon his default in appearing at a pretrial conference, awarded judgment in favor of the plaintiff and dismissed the third-party complaint.

ORDERED that the order dated November 2, 2005, is reversed, on the law, the facts, and in the exercise of discretion, without costs or disbursements, the motion of the defendant third-party plaintiff to vacate the order entered October 21, 2002, is granted, and the matter is remitted to the Supreme Court, Suffolk County, before a different Justice.

March 13, 2007

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The defendant demonstrated a reasonable excuse for his default and a meritorious defense. Accordingly, his motion to vacate the order entered upon his default should have been granted.

CRANE, J.P., KRAUSMAN, CARNI and DICKERSON, 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