

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

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A. GAIL PRUDENTI, P.J.
STEVEN W. FISHER
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2006-11039

DECISION, ORDER & JUDGMENT

In the Matter of Edward Koehl, petitioner, v
Harold Levy, et al., respondents.

Edward Koehl, Comstock, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Katherine E. Timon of
counsel), for respondent Wayne P. Saitta.

Proceeding pursuant to CPLR article 78, inter alia, in the nature of mandamus to compel, among others, Wayne P. Saitta, a Justice of the Supreme Court, Kings County, to calendar the petitioner's motion in a matter entitled *Koehl v Levy*, pending in the Supreme Court, Kings County, under Index No. 7919/06, without requiring the petitioner to purchase an RJI number, and application by the petitioner for poor person relief.

ORDERED that the application for poor person relief is granted to the extent that the filing fee imposed by CPLR 8022(b) is waived, and the application is otherwise denied; and it is further,

ADJUDGED that the petition is denied and the proceeding is dismissed, without costs or disbursements.

The extraordinary remedy of mandamus will lie only to compel the performance of a ministerial act and only when there exists a clear legal right to the relief sought (*see Matter of Legal*

Aid Society of Sullivan County v Scheinman, 53 NY2d 12, 16). The petitioner has failed to demonstrate a clear legal right to the relief sought.

PRUDENTI, P.J., FISHER, CARNI and McCARTHY, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court