

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

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Submitted - May 11, 2007

ROBERT W. SCHMIDT, J.P.  
FRED T. SANTUCCI  
PETER B. SKELOS  
ROBERT A. LIFSON, JJ.

2006-00851

DECISION & ORDER

Wells Fargo Bank Minnesota, National Association,  
etc., respondent, v Bernice Perez, appellant.

(Index No. 11365/03)

Bernice Perez, Mount Vernon, N.Y., appellant pro se.

Fein, Such & Crane, LLP, Chestnut Ridge, N.Y. (Mikelle V. Komor of counsel), for  
respondent.

In an action to foreclose a mortgage, the defendant appeals from an order of the Supreme Court, Westchester County (Jamieson, J.), entered December 16, 2005, which, inter alia, granted the plaintiff's motion for summary judgment on the complaint and dismissing her affirmative defenses, and to strike her answer.

ORDERED that the order is affirmed, with costs.

Contrary to the defendant's contention, the Supreme Court properly granted the plaintiff's motion for summary judgment on the complaint and dismissing her affirmative defenses, and to strike her answer. The plaintiff established its entitlement to judgment as a matter of law by submitting the relevant mortgage and note, and demonstrating that the defendant was in default under the terms of the mortgage and the subsequent repayment plan (*see Wolf v Citibank, N.A.*, 34 AD3d 574; *JPMorgan Chase Bank v Gamut-Mitchell, Inc.*, 27 AD3d 622; *Charter One Bank v Houston*, 300 AD2d 429; *Federal Home Loan Mtge. Corp. v Karastahis*, 237 AD2d 558; *Wasserman v Harriman*, 234 AD2d 596; *DiNardo v Patcam Serv. Sta.*, 228 AD2d 543). In opposition, the defendant failed to submit any evidence raising a triable issue of fact rebutting the plaintiff's showing

or as to the merit of any of her affirmative defenses (*see Wolf v Citibank, N.A., supra; Charter One Bank, v Houston, supra; Home Sav. of Am. v Isaacson, 240 AD2d 633*).

SCHMIDT, J.P., SANTUCCI, SKELOS and LIFSON, 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