

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

D15600  
Y/gts

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

Argued - May 15, 2007

HOWARD MILLER, J.P.  
WILLIAM F. MASTRO  
MARK C. DILLON  
WILLIAM E. McCARTHY, JJ.

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2006-09000

DECISION & ORDER

Iron Mountain Information Management, Inc.,  
appellant, v Ester Diane Pullman, et al.,  
respondents.

(Index No. 1175/06)

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Lewis & Greer, P.C., Poughkeepsie, N.Y. (Veronica A. McMillan and Lou Lewis of counsel), for appellant.

Levine & Levine, P.C., Poughkeepsie, N.Y. (Robert P. Cusumano of counsel), for respondents.

In an action for specific performance of a commercial lease providing options to renew and purchase, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Dutchess County (Sproat, J.), dated September 8, 2006, as denied its motion for a preliminary injunction.

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

In order to obtain a preliminary injunction (*see* CPLR 6301), the moving party must demonstrate (1) a likelihood of success on the merits, (2) an irreparable injury absent the injunction; and (3) a balancing of the equities in its favor (*see Aetna Ins. Co. v Capasso*, 75 NY2d 860; *Gerstner*

*v Katz*, 38 AD3d 835). Under the circumstances of this case, the issuance of a preliminary injunction was not warranted.

MILLER, J.P., MASTRO, DILLON and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer  
Clerk of the Court