

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

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_____AD3d_____

Argued - May 22, 2007

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
ROBERT A. LIFSON
DANIEL D. ANGIOLILLO, JJ.

2006-04414

DECISION & ORDER

Antonio Vendome, respondent, v Linda Vendome,
appellant.

(Index No. 200209/05)

Glenn S. Koopersmith, Garden City, N.Y., for appellant.

Zane and Rudofsky, New York, N.Y. (James B. Zane and Edward S. Rudofsky of
counsel), for respondent.

In an action for a divorce and ancillary relief, the defendant appeals, as limited by her brief, from so much of an order of the Supreme Court, Nassau County (Balkin, J.), dated March 24, 2006, as denied her motion, in effect, for summary judgment determining that the prenuptial agreement did not waive, limit, preclude, or affect her right to equitable distribution of the increase in value of the defendant's property during the marriage.

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

The parties' prenuptial agreement provided that each party waived any right "that he or she may acquire by reason of the marriage in the other party's property," including "[a]ll rights under the Domestic Relations Law as they relate to Equitable Distribution to all property." Since the agreement was clear, the Supreme Court properly denied the defendant's motion, in effect, for summary judgment determining that the prenuptial agreement did not, inter alia, waive her right to equitable distribution of the increase in value of the defendant's property during the marriage (*see Moor-Jankowski v Moor-Jankowski*, 222 AD2d 422; *Roos v Roos*, 206 AD2d 293).

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The plaintiff's contention that the defendant waived her right to appeal from the portion of the order denying her motion is without merit.

SPOLZINO, J.P., RITTER, LIFSON and ANGIOLILLO, 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