

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

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_____AD3d_____

Submitted - June 13, 2007

ROBERT W. SCHMIDT, J.P.
GABRIEL M. KRAUSMAN
GLORIA GOLDSTEIN
JOSEPH COVELLO
DANIEL D. ANGIOLILLO, JJ.

2006-08918

DECISION & ORDER

Howard Rukeyser, appellant, v Leacroft Richardson,
respondent, et al., defendant.

(Index No. 3833/99)

Howard Rukeyser, White Plains, N.Y., appellant pro se.

Richard St. Paul, Bronx, N.Y., for respondent.

In an action, inter alia, to recover fees for legal services rendered, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Westchester County (Murphy, J.), entered March 23, 2006, as granted that branch of the motion of the defendant Leacroft Richardson which was to vacate his default in answering.

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

The Supreme Court has inherent discretionary power to vacate a default which is not subject to the one-year limitation in CPLR 5015 (*see Ray Realty Fulton, Inc. v Lee*, 7 AD3d 772, 773). Here, the Supreme Court providently exercised its discretion in granting that branch of the motion of the defendant Leacroft Richardson which was to vacate his default in answering based on his presentation of a reasonable excuse for the default and a meritorious defense (*see CPLR 5015[a][1]; Montefiore Med. Ctr. v Hartford Acc. & Indem. Co.*, 37 AD3d 673; *Mele v Okubo*, 36 AD3d 599, 600).

SCHMIDT, J.P., KRAUSMAN, GOLDSTEIN, COVELLO and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 4, 2007

RUKEYSER v RICHARDSON