

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

D15980  
Y/gts

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

Submitted - June 13, 2007

STEPHEN G. CRANE, J.P.  
FRED T. SANTUCCI  
ANITA R. FLORIO  
MARK C. DILLON  
RUTH C. BALKIN, JJ.

---

2006-09064

DECISION & ORDER

Michael Goody, appellant, v James Lloyd,  
et al., defendants, Kimberly Jones, a/k/a  
“Lil Kim,” respondent.

(Index No. 31483/02)

---

Mysliwicz & Hammer, LLP, New York, N.Y. (Ronald P. Mysliwicz of counsel), for  
appellant.

Marco A. Laracca, Orange, N.J., pro hac vice, for respondent.

In an action, inter alia, to recover damages for assault, the plaintiff appeals from an order of the Supreme Court, Kings County (Hinds-Radix, J.), dated August 18, 2006, which granted the motion of the defendant Kimberly Jones, a/k/a “Lil Kim,” to vacate an order of the same court entered July 29, 2005, granting that branch of the plaintiff’s motion which was pursuant to CPLR 3126 for leave to enter judgment against that defendant on the issue of liability based upon her default in appearing for an examination before trial, without opposition, and scheduling an inquest.

ORDERED that the order is reversed, on the law, with costs, the motion of the defendant Kimberly Jones, a/k/a “Lil Kim,” to vacate the order entered July 29, 2005, is denied, and the order entered July 29, 2005, is reinstated.

To vacate her default, the defendant Kimberly Jones, a/k/a “Lil Kim,” was required to demonstrate a reasonable excuse for not opposing the plaintiff’s motion and a meritorious defense to the motion (*see* CPLR 5015[a][1]; *Piton v Cribb*, 38 AD3d 741, 742; *Yurteri v Artukmac*, 28

August 7, 2007

Page 1.

GOODY v LLOYD

AD3d 545, 546). Jones failed to present a reasonable excuse. Where, as here, there is a pattern of default and neglect, the attorney's negligence can properly be imputed to the client (*see Dave Sandel, Inc. v Specialized Indus. Servs. Corp.*, 35 AD3d 790, 791; *Edwards v Feliz*, 28 AD3d 512, 513; *MRI Enters. v Amanat*, 263 AD2d 530, 531). Accordingly, the Supreme Court should have denied Jones' motion to vacate.

CRANE, J.P., SANTUCCI, FLORIO, DILLON and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court