

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

D16030  
O/gts

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Submitted - June 19, 2007

REINALDO E. RIVERA, J.P.  
DAVID S. RITTER  
ANITA R. FLORIO  
STEVEN W. FISHER, JJ.

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2006-08736

DECISION & ORDER

James Savino, respondent, v Anne Savino, appellant.

(Index No. 50869/05)

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Valerie J. Camacho, Staten Island, N.Y., for appellant.

James Savino, Staten Island, N.Y., respondent pro se.

In an action for a divorce and ancillary relief, the defendant appeals from an order of the Supreme Court, Richmond County (Adams, J.), dated August 4, 2006, which granted the plaintiff's motion, in effect, to compel her to accept an untimely complaint and, in effect, denied that branch of her cross motion which was to dismiss the action for failure to timely serve a complaint pursuant to CPLR 3012(b).

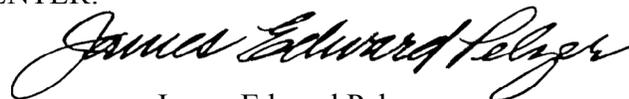
ORDERED that the order is affirmed, with costs.

Contrary to the defendant's contention, the plaintiff's submission of a proposed amended verified complaint and his reference thereto in his motion papers, in place of a separate affidavit of merit, was sufficient to satisfy the requirement to demonstrate a meritorious cause of action (*see Chiaffarano v Winston*, 234 AD2d 329; *see also Salch v Paratore*, 60 NY2d 851, 852-853; *Bartone v County of Nassau*, 286 AD2d 354).

The defendant's remaining contentions are without merit.

RIVERA, J.P., RITTER, FLORIO and FISHER, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

September 18, 2007

SAVINO v SAVINO