

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

D16133
G/gts

_____AD3d_____

Submitted - June 11, 2007

HOWARD MILLER, J.P.
GLORIA GOLDSTEIN
STEVEN W. FISHER
JOSEPH COVELLO, JJ.

2006-07806
2006-09497

DECISION & ORDER

Vincent Longobardi, appellant, v John Pennacchio,
et al., defendants, William Naddeo, Jr., respondent.

(Index No. 19646/03)

Edward Joseph Filemyr IV, New York, N.Y. (Pamela Smith of counsel), for
appellant.

Hagan, Coury & Associates, Brooklyn, N.Y. (Paul Golden of counsel), for
respondent.

Segal & Lax, New York, N.Y. (Patrick Daniel Gatti of counsel), for defendant John
Pennacchio.

In an action for the partition of certain real property, the plaintiff appeals from (1) an order of the Supreme Court, Kings County (Ambrosio, J.), dated June 12, 2006, which, inter alia, denied his motion pursuant to CPLR 6513 to extend a notice of pendency filed with respect to the subject property, and granted the separate motion of the defendant William Naddeo, Jr., among other things, to dismiss the complaint pursuant to CPLR 3211, vacate the notice of pendency pursuant to CPLR 6514, and for a judgment declaring that a certain deed of record dated January 18, 2002, based upon which the plaintiff claimed his interest in the subject property, is void, and (2) an order of the same court dated September 6, 2006, which, inter alia, cancelled the January 18, 2002, deed.

ORDERED that the orders are affirmed, with one bill of costs.

September 18, 2007

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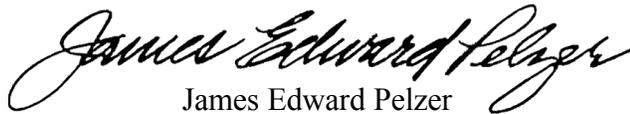
LONGOBARDI v PENNACCHIO

This action is barred by the default judgment entered in a related action entitled *Pennacchio v Scarfato* in the Supreme Court, Kings County, under Index No. 23845/99 (see RPAPL 1531[1]; *Gramatan Home Invs. Corp. v Lopez*, 46 NY2d 481, 486; *Watts v Swiss Bank Corp.*, 27 NY2d 270, 277; *Matter of Allstate Ins. Co. v Williams*, 29 AD3d 688, 690; *Luscher v Arrua*, 21 AD3d 1005, 1006-1007; *Matter of Eagle Ins. Co. v Facey*, 272 AD2d 399, 400; *Martins v Wood*, 251 AD2d 465).

The parties' remaining contentions are without merit.

MILLER, J.P., GOLDSTEIN, FISHER and COVELLO, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court