

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

D16468  
X/cb

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

Submitted - September 19, 2007

REINALDO E. RIVERA, J.P.  
GABRIEL M. KRAUSMAN  
ANITA R. FLORIO  
EDWARD D. CARNI  
RUTH C. BALKIN, JJ.

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2006-10086

DECISION & ORDER

Bank of America, N.A., USA, respondent, v Resa R.  
Friedman, appellant.

(Index No. 5196/03)

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Resa R. Friedman, Clinton Corners, N.Y., appellant pro se.

Goldman, Warshaw & Parrella, P.C. (Jeffrey M. Parrella of counsel), for respondent  
(no brief filed).

In an action to recover damages for breach of contract, the defendant appeals from an order of the Supreme Court, Dutchess County (Dolan, J.), dated October 12, 2006, which denied her motion, in effect, for leave to renew her prior motion to vacate a judgment of the same court dated March 16, 2006, entered upon her default in opposing the plaintiff's motion for summary judgment, which is in favor of the plaintiff and against her in the principal sum of \$8,288.06, which motion had been denied in a prior order dated July 27, 2006.

ORDERED that the order is affirmed, without costs or disbursements.

It is well established that a motion for leave to renew must be "based upon new facts not offered on the prior motion that would change the prior determination," and that the movant must state a "reasonable justification for the failure to present such facts on the prior motion" (CPLR

October 9, 2007

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2221[e]; see *Yarde v New York City Tr. Auth.*, 4 AD3d 352; *Riccio v Deperalta*, 274 AD2d 384).

Since the defendant's motion for leave to renew was not based upon any such new facts, the Supreme Court properly denied her motion.

RIVERA, J.P., KRAUSMAN, FLORIO, CARNI and BALKIN, 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