

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

D17750
O/prt

_____AD3d_____

Argued - December 6, 2007

WILLIAM F. MASTRO, J.P.
STEVEN W. FISHER
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2007-04474

DECISION & ORDER

Federal Financial Co., respondent,
v Public Administrator, Kings County, as Administrator
of the Estate of Eli Gutman, et al., defendants,
Arye Gutman, et al., appellants.

(Index No. 14444/97)

Alexander T. Singer, Brooklyn, N.Y., for appellants.

Bruce R. Bekritsky, Mineola, N.Y., for respondent.

In an action to foreclose a mortgage, the defendants Arye Gutman and A.G.E. Holding Co. appeal from an order of the Supreme Court, Kings County (Marano, J.H.O.), dated April 5, 2007, which, after a hearing to determine the validity of service of a motion for a deficiency judgment, determined that service was properly made.

ORDERED that the order is affirmed, with costs.

The resolution of credibility issues by the hearing court is entitled to deference on appeal, and will be upheld if supported by evidence in the record (*see generally Gass v Gass*, 42 AD3d 393; *Ahrens v Chisena*, 40 AD3d 787; *Lattingtown Harbor Prop. Owners v Agostino*, 34 AD3d 536). The hearing record in this case supports the court's conclusion that the service of the

motion for a deficiency judgment upon the appellants substantially complied with the requirements of RPAPL 1371 (2) (*see* CPLR 2103[b][3]; *Marine Midland Bank v Rashid*, 259 AD2d 739; *DJS Realty v Hirsch*, 251 AD2d 618; *MBL Life Assur. Corp. v 555 Realty Co.*, 251 AD2d 557; *Sarasota, Inc. v Homestead Acres*, 249 AD2d 290), and we discern no basis for disturbing that determination.

MASTRO, J.P., FISHER, CARNI and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court