

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

D17925  
O/kmg

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

Argued - January 8, 2008

ROBERT A. LIFSON, J.P.  
DAVID S. RITTER  
DANIEL D. ANGIOLILLO  
EDWARD D. CARNI, JJ.

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2006-06270

DECISION & ORDER

Mintz & Gold, LLP, respondent, v  
Penny Fern Hart, appellant.

(Index No. 018178/05)

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Hoffman & Pollok, LLP, New York, N.Y. (William A. Rome and Alan S. Futerfas of counsel), for appellant.

Reisman, Peirez & Reisman, LLP, Garden City, N.Y. (Jerome Reisman of counsel), for respondent.

In an action, inter alia, to recover unpaid legal fees, the defendant appeals, as limited by her notice of appeal and brief, from so much of an order of the Supreme Court, Nassau County (Warshawsky, J.), entered May 25, 2006, as granted that branch of the plaintiff's motion which was to strike her seventh affirmative defense, and denied those branches of her cross motion which were, in effect, for summary judgment dismissing the first through fifth causes of action in the complaint based on the lack of a written letter of engagement.

ORDERED that the order is affirmed insofar as appealed from, with costs.

Contrary to the appellant's contention, the absence of a written letter of engagement or retainer agreement does not preclude the plaintiff law firm from collecting legal fees on the facts presented (*see Seth Rubenstein, P.C. v Ganea*, 41 AD3d 54, 60; 22 NYCRR 1215.1[a]; 22 NYCRR 1215.2[b]).

The parties' remaining contentions either are without merit or have been rendered

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academic by our determination in *Mintz & Gold, LLP v Hart* ( \_\_\_\_\_ AD3d \_\_\_\_\_ [Appellate Division Docket Nos. 2007-02155, 2007-11360, decided herewith]).

LIFSON, J.P., RITTER, ANGIOLILLO and CARNI, 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