

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

D17950
X/kmg

_____AD3d_____

Argued - January 7, 2008

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2007-06135

DECISION & ORDER

Tsvi Dallal, respondent, v Kantrowitz,
Goldhamer & Graifman, P.C., appellant.

(Index No. 99/2003)

Kantrowitz, Goldhamer & Graifman, P.C., Chestnut Ridge, N.Y. (Reginald H.
Rutishauser of counsel), appellant pro se.

In an action, inter alia, to recover damages for legal malpractice, the defendant appeals from an order of the Supreme Court, Kings County (Johnson, J.), dated June 7, 2007, which denied its motion pursuant to CPLR 3212 for leave to serve and file a late motion for summary judgment and for summary judgment dismissing the complaint.

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

Pursuant to Rule 13 of the Uniform Civil Term Rules of the Supreme Court, Kings County, the defendant was required to make its motion for summary judgment no more than 60 days after the note of issue was filed, except with leave of the court on good cause shown. Here, the subject motion was untimely and the excuses proffered by the defendant were insufficient to constitute good cause for the delay (*see* CPLR 3212[a]; *Miceli v State Farm Mut. Auto. Ins. Co.*, 3 NY3d 725; *Brill v City of New York*, 2 NY3d 648, 652; *Pierre v Feldman*, 41 AD3d 454, 455; *Breiding v Giladi*, 15 AD3d 435).

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In light of our determination, we need not consider the defendant's remaining contentions.

RIVERA, J.P., SANTUCCI, COVELLO 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