

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

D18167
C/prt

_____AD3d_____

Argued - January 8, 2008

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

2006-06984
2006-06995

DECISION & ORDER

Yadid, LLC, etc., respondent,
v GCW Bell Corp., et al., defendants,
Jacques Romulus, appellant.

(Index No. 7139/03)

Marjory Cajoux, Brooklyn, N.Y., for appellant.

Allen M. Rosenthal, Hicksville, N.Y. (Ira R. Sitzer of counsel), for respondent.

In an action, inter alia, to recover damages for breach of contract, the defendant Jacques Romulus appeals (1), as limited by his brief, from so much of an order of the Supreme Court, Kings County (Partnow, J.), dated February 14, 2006, as, upon granting his motion, in effect, to vacate a default judgment against him, conditioned the vacatur upon the depositing of his taxi medallion with the court, and (2) from an order of the same court dated June 20, 2006, which granted the plaintiff's motion, among other things, to direct him to deposit his taxi medallion with the court, and, in effect, amended the order dated February 14, 2006, by directing him to deposit his taxi medallion with the court or post a bond for the amount of the judgment with interest.

ORDERED that the appeal from the order dated February 14, 2006, is dismissed, as that order was superseded by the order dated June 20, 2006; and it is further,

ORDERED that the order dated June 20, 2006, is affirmed; and it is further,

ORDERED that one bill of costs is awarded to the plaintiff.

February 26, 2008

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Contrary to the appellant's contentions, the Supreme Court properly conditioned vacatur of the default judgment upon a direction that he deposit his taxi medallion with the court or post a bond for the amount of the judgment with interest (*see* CPLR 5015[a]; *Testwell Craig Labs. v Charles Assocs.*, 264 AD2d 836; *Curry v Roman*, 217 AD2d 314, 320).

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

ENTER:



James Edward Pelzer
Clerk of the Court