

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

D19039  
O/kmg

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

Submitted - March 26, 2008

PETER B. SKELOS, J.P.  
FRED T. SANTUCCI  
JOSEPH COVELLO  
WILLIAM E. McCARTHY  
CHERYL E. CHAMBERS, JJ.

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2007-07467

DECISION & ORDER

Jeannette Zapata-DeJesus, respondent,  
v Richard Zapata, appellant.

(Index No. 7809/02)

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Glenn Kroll, Bloomingburg, N.Y. (Gail B. Rubenfeld of counsel), for appellant.

Greher Law Offices, P.C., New Windsor, N.Y. (John A. McHugh of counsel), for respondent.

In a matrimonial action in which the parties were divorced by judgment dated February 24, 2005, the defendant appeals from an order of the Supreme Court, Orange County (Slobod, J.), dated December 5, 2005, which denied his motion pursuant to CPLR 5015(a) to vacate an order of the same court dated August 11, 2005, granting the plaintiff's unopposed motion to compel him to transfer the title of the former marital residence to her pursuant to the terms of the judgment of divorce.

ORDERED that the order is affirmed, with costs.

Contrary to the defendant's contentions, the court did not improvidently exercise its discretion in denying his motion to vacate the order issued upon his default in opposing the plaintiff's motion to enforce the terms of the judgment of divorce compelling him to transfer his interest in the former marital residence to her. The defendant's conclusory denials of service of the plaintiff's motion were insufficient to warrant a hearing on the validity of service (*see Simmons First Nat. Bank*

April 29, 2008

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*v Mandracchia*, 248 AD2d 375; *Remington Invs. v Seiden*, 240 AD2d 647; *Manhattan Sav. Bank v Kohen*, 231 AD2d 499; *Ruskin, Moscou, Evans & Faltischek v Beal*, 212 AD2d 687).

SKELOS, J.P., SANTUCCI, COVELLO, McCARTHY and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, prominent initial "J".

James Edward Pelzer  
Clerk of the Court