

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

D20568
C/prt

_____AD3d_____

Submitted - September 4, 2008

ROBERT A. LIFSON, J.P.
ANITA R. FLORIO
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2007-11004

DECISION & ORDER

Maria Nikolaidis, et al., appellants, v
La Terna Restaurant, et al., respondents.

(Index No. 27550/03)

Latos Latos & Di Pippo, P.C., Astoria, N.Y. (Peter Latos of counsel), for appellants.

George M. Gavalas, P.C., Mineola, N.Y., for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Queens County (Taylor, J.), dated August 31, 2007, which denied their motion to amend a judgment of the same court (Schulman, J.) entered May 3, 2006, upon the defendants' default, in favor of the plaintiff Maria Nikolaidis and against the defendant La Terna Restaurant, to name Laterna Restaurant and Catering, Inc., as the correct judgment debtor.

ORDERED that the order is affirmed, with costs.

In this action to recover damages for personal injuries, etc., the plaintiffs entered a judgment on May 3, 2006, upon the defendants' default, against "La Terna Restaurant." When their efforts to execute on the judgment proved unsuccessful, they moved to amend the judgment to name Laterna Restaurant and Catering, Inc., as the correct judgment debtor. The Supreme Court properly denied the motion in light of the plaintiffs' failure to establish that personal jurisdiction was timely obtained over Laterna Restaurant and Catering, Inc., and that Laterna Restaurant and Catering,

October 7, 2008

Page 1.

NIKOLAIDIS v LA TERNA RESTAURANT

Inc., was apprised of the action against it, such that it would not be prejudiced by the amendment (see *Gennosa v Twinco Services, Inc.*, 267 AD2d 200).

LIFSON, J.P., FLORIO, ENG and BELEN, 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