

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

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PETER B. SKELOS, J.P.  
ROBERT A. LIFSON  
FRED T. SANTUCCI  
EDWARD D. CARNI, JJ.

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2008-09190

DECISION, ORDER & JUDGMENT

In the Matter of Cheryl Uzamere, petitioner,  
v Jeffrey Sunshine, etc., respondent.

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Cheryl D. Uzamere, Brooklyn, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Charles F. Sanders of  
counsel), for respondent.

Proceeding pursuant to CPLR article 78, inter alia, in the nature of prohibition to prevent the respondent Jeffrey Sunshine, Justice of the Supreme Court, Kings County, from proceeding with an underlying action for a divorce and ancillary relief entitled *Uzamere v Uzamere*, pending in the Supreme Court, Kings County, under Index No. 26332/07, and in the nature of mandamus to compel the respondent, among other things, to so-order certain subpoenas. Application by the petitioner to prosecute this proceeding as a poor person.

ORDERED that the application to prosecute this proceeding as a poor person is granted to the extent that the filing fee imposed by CPLR 8022(b) is waived, and the application is otherwise denied as academic; and it is further,

ADJUDGED that the petition is denied and the proceeding is dismissed on the merits, without costs or disbursements.

The extraordinary remedy of mandamus will lie only to compel the performance of a ministerial act and only when there exists a clear legal right to the relief sought (*see Matter of Legal Aid Society of Sullivan County v Scheinman*, 53 NY2d 12, 16). In addition, “[b]ecause of its extraordinary nature, prohibition is available only where there is a clear legal right, and then only

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when a court - in cases where judicial authority is challenged - acts or threatens to act either without jurisdiction or in excess of its authorized powers” (*Matter of Holtzman v Goldman*, 71 NY2d 564; *see Matter of Rush v Mordue*, 68 NY2d 348). The petitioner has failed to demonstrate a clear legal right to the relief sought.

SKELOS, J.P., LIFSON, SANTUCCI 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