

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

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Submitted - November 12, 2008

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
DANIEL D. ANGIOLILLO  
WILLIAM E. McCARTHY  
CHERYL E. CHAMBERS, JJ.

2007-10725

DECISION & ORDER

Rita Katanova, appellant, v Eastern Metalworks,  
Inc., et al., respondents (and a third-party action).

(Index No. 18852/99)

Taller & Wizman, P.C., Forest Hills, N.Y. (Ephrem J. Wertenteil of counsel), for appellant.

Murphy & Higgins, LLP, New Rochelle, N.Y. (Andrew M. Harrison of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from a judgment of the Supreme Court, Queens County (Schulman, J.), dated November 5, 2007, which, upon an order of the same court dated July 16, 2007, denying her motion, in effect, to vacate a prior order dated January 18, 2007, granting the defendants' unopposed motion, in effect, to vacate an order dated September 8, 2006, which had granted her unopposed motion, inter alia, in effect, to vacate an order dated June 26, 2002, sua sponte, dismissing the action pursuant to 22 NYCRR 202.27(b), dismissed the complaint.

ORDERED that the judgment is affirmed, with costs.

In order to vacate the dismissal of this action, the plaintiff was required to demonstrate a reasonable excuse for her default in opposing the defendant's motion, in effect, to vacate an order

December 16, 2008

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dated September 8, 2006, and a meritorious opposition to that motion (*see Raciti v Sands Point Nursing Home*, 54 AD3d 1014, 1014; *Simpson v Tommy Hilfiger U.S.A., Inc.*, 48 AD3d 389; *Joseph v GMAC Leasing Corp.*, 44 AD3d 905). Here, the plaintiff failed to meet her burden.

RIVERA, J.P., FLORIO, ANGIOLILLO, McCARTHY and CHAMBERS, 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