

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

D22738  
G/kmg

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

Argued - February 23, 2009

ROBERT A. SPOLZINO, J.P.  
ANITA R. FLORIO  
HOWARD MILLER  
RANDALL T. ENG, JJ.

---

2008-02123

DECISION & ORDER

Raul I. Goco, etc., appellant, v Mohan Ramnani,  
et al., respondents.

(Index No. 17854/06)

---

Kiley, Kiley & Kiley, PLLC, Great Neck, N.Y. (Donald T. Kiley, Jr., and James D. Kiley of counsel), for appellant.

Spizz & Cooper, LLP, Mineola, N.Y. (Harvey W. Spizz of counsel), for respondents.

In an action, inter alia, to impose a constructive trust upon certain assets, the plaintiff appeals from an order of the Supreme Court, Nassau County (Spinola, J.), dated February 7, 2008, which, inter alia, granted the defendants' motion for summary judgment dismissing the complaint as time-barred.

ORDERED that the order is affirmed, with costs.

The gravamen of the plaintiff's causes of action to impose a constructive trust and to recover damages for conversion is that the defendants mishandled funds and property owned by the decedent during the period between September 1998 to April 2000. Constructive trust and conversion claims are governed by the six-year statute of limitations of CPLR 213(1) (*see Loengard v Santa Fe Indus.*, 70 NY2d 262, 267; *Auffermann v Distl*, 56 AD3d 502; *Pisciotta v Dries*, 306 AD2d 262, 263; *Mazzone v Mazzone*, 269 AD2d 574, 574-575; *Krauss v Iliescu*, 259 AD2d 468), which begins to run at the time of the wrongful conduct or event giving rise to a duty of restitution (*see Reiner v Jaeger*, 50 AD3d 761; *Maric Piping v Maric*, 271 AD2d 507, 508; *Sitkowski v Petzing*, 175 AD2d 801, 802; *Dybowski v Dybowska*, 146 AD2d 604, 605). The Supreme Court properly

August 25, 2009

Page 1.

GOCO v RAMNANI

dismissed the complaint as time-barred, since the action was commenced October 31, 2006, more than six years after the defendants' alleged mishandling of the decedent's funds and property (*see* CPLR 213[1]; *Loengard v Santa Fe Indus.*, 70 NY2d at 267; *Mazzone v Mazzone*, 269 AD2d at 574-575; *cf. Maric Piping v Maric*, 271 AD2d at 508).

The plaintiff's remaining contentions are without merit or improperly raised for the first time on appeal.

SPOLZINO, J.P., FLORIO, MILLER and ENG, 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