

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

D23223  
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Submitted - March 18, 2009

WILLIAM F. MASTRO, J.P.  
STEVEN W. FISHER  
HOWARD MILLER  
THOMAS A. DICKERSON  
CHERYL E. CHAMBERS, JJ.

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2008-04443

DECISION & ORDER

Barbara Lamb, etc., et al., appellants, v William A.  
Moody, Jr., defendant, William Dennis Moody,  
respondent.

(Index No. 10851/00)

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Roemer Wallens & Mineaux, LLP, Albany, N.Y. (Robert P. Mascali of counsel), for  
appellant.

William Dennis Moody, Elmsford, N.Y., respondent pro se.

In an action to recover damages for fraudulent conveyance of real property, the  
plaintiffs appeal from an order of the Supreme Court, Westchester County (Coppola, J.H.O.), entered  
March 20, 2008, which denied their unopposed motion pursuant to CPLR 3215 for leave to enter a  
judgment against the defendant William Dennis Moody upon his default in appearing or answering.

ORDERED that the order is affirmed, with costs.

In support of their motion for leave to enter a default judgment against the respondent  
upon his failure to appear or to answer the complaint, the plaintiffs failed to proffer either an affidavit  
of the facts or a complaint verified by a party with personal knowledge of the facts as required by  
CPLR 3215(f) (*see Peniston v Epstein*, 10 AD3d 450; *DeVivo v Sparago*, 287 AD2d 535, 536;

May 19, 2009

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*Fiorino v Yung Poon Yung*, 281 AD2d 513). Accordingly, the Supreme Court properly denied the motion.

MASTRO, J.P., FISHER, MILLER, DICKERSON 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