

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

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_____AD3d_____

Submitted - April 3, 2009

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2008-01593

DECISION & ORDER

Diane M. Finnerty, etc., appellant, v Erling C.
Kristiansen, et al., respondents.

(Index No. 14484/04)

Arnold Davis, New York, N.Y., for appellant.

Lamb & Barnosky, LLP, Melville, N.Y. (Joel M. Markowitz of counsel), for
respondents.

In an action pursuant to Debtor and Creditor Law Article 10 to set aside certain transfers as fraudulent, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Rebolini, J), dated December 4, 2007, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly determined that the plaintiff causes of action alleging actual and constructive fraud were barred by the statute of limitations (*see Matter of Gaglione v Sam's Bargain Ctr.*, 283 AD2d 645; *Liberty Co. v Boyle*, 272 AD2d 380; *Fandy Corp. v Lung-Fong Chen*, 262 AD2d 352; *Wall St. Assoc. v Brodsky*, 257 AD2d 526, 530). Moreover, there is no merit to the plaintiff's argument that her second cause of action did not accrue until after entry of a money judgment in a related matrimonial action (*see Debtor and Creditor Law § 270; Buttles v Smith*, 281 NY 226; *Matter of Gaglione v Sam's Bargain Ctr., Inc.*, 283 AD2d 645).

June 2, 2009

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The plaintiff's remaining contentions are without merit.

SPOLZINO, J.P., SANTUCCI, BELEN and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

James Edward Pelzer
Clerk of the Court