

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

D23826
T/kmg

_____AD3d_____

Argued - April 30, 2009

PETER B. SKELOS, J.P.
STEVEN W. FISHER
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2008-02444

DECISION & ORDER

In the Matter of Reisman, Peirez & Reisman,
LLP, respondent, v Shoba Prakash, appellant.

(Index No. 14264/06)

Shoba Prakash, New Hyde Park, N.Y., appellant pro se.

Reisman, Peirez & Reisman, LLP, Garden City, N.Y. (Michael J. Angelo of counsel),
respondent pro se.

In a proceeding pursuant to CPLR article 75 to confirm an arbitration award dated September 1, 2005, which, upon, in effect, granting the petitioner's application to vacate a prior arbitration award dated August 3, 2005, awarded the petitioner the principal sum of \$5,779.24, Shoba Prakash appeals from a judgment of the Supreme Court, Nassau County (Mahon, J.), dated February 5, 2008, which, upon an order of the same court dated February 9, 2007, granting the petition, is in favor of the petitioner and against her in the total sum of \$7,062.23.

ORDERED that the judgment is reversed, on the law, with costs, the petition is denied, the arbitration award dated September 1, 2005, is vacated, the application is denied, and the arbitration award dated August 3, 2005, is reinstated and confirmed.

Contrary to the petitioner's contention, under the circumstances of this case the arbitrator improperly, in effect, granted its application to vacate his prior award, as the petitioner failed to demonstrate any of the statutory grounds for vacating or modifying the arbitrator's original award (*see* CPLR 7511). Accordingly, the Supreme Court erred in granting the petition to confirm

July 7, 2009

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the arbitration award dated September 1, 2005 (*see Matter of Allstate Ins. Co. v Dental Health Care, P.C.*, 24 AD3d 437).

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

SKELOS, J.P., FISHER, BELEN and LOTT, 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