

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

D24160  
O/prt

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

Submitted - June 17, 2009

PETER B. SKELOS, J.P.  
ANITA R. FLORIO  
RUTH C. BALKIN  
ARIEL E. BELEN  
LEONARD B. AUSTIN, JJ.

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2008-06888

DECISION & ORDER

Ted Rothstein, etc., et al., appellants, v  
Christine Collazo, et al., respondents.

(Index No. 33573/05)

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Roy A. McKenzie, New York, N.Y., for appellants.

Robinson Brog Leinwand Greene Genovese & Gluck, P.C., New York, N.Y. (Donna M. Bates and Ronald B. Goodman of counsel), for respondents.

In an action to recover damages for fraud, the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Hinds-Radix, J.), dated July 2, 2008, as granted the defendants' motion to vacate a judgment of the same court entered October 9, 2007, which, upon the defendants' default in answering the amended complaint and after an inquest on damages, was in favor of the plaintiffs and against them in the principal sum of \$413,000.

ORDERED that the order is affirmed insofar as appealed from, with costs.

To vacate their default in answering the amended complaint, the defendants were required to demonstrate a reasonable excuse for their failure to serve an answer and a meritorious defense to the action (*see* CPLR 5015[a][1]; *Forward Door of N.Y., Inc. v Forlader*, 41 AD3d 535; *Piton v Cribb*, 38 AD3d 741; *Fekete v Camp Skwere*, 16 AD3d 544, 545). Here, the defendants provided a reasonable explanation for their default. Moreover, the defendant Christine Collazo's

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detailed presentation of a meritorious defense went unrefuted by the plaintiffs. Accordingly, the Supreme Court providently exercised its discretion in granting the defendants' motion.

SKELOS, J.P., FLORIO, BALKIN, BELEN and AUSTIN, 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