

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

D27013
Y/prt

_____AD3d_____

Submitted - March 5, 2010

STEVEN W. FISHER, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
SANDRA L. SGROI, JJ.

2009-05321

DECISION & ORDER

Shawn Ting Scheu, appellant, v
Fan Ru Tseng, respondent.

(Index No. 13446/08)

Kenneth W. Jiang, New York, N.Y., for appellant.

Hsu Law Associates, PLLC, New York, N.Y. (Irena Milos of counsel), for
respondent.

In a matrimonial action in which the parties were divorced by judgment dated October 8, 2008, the plaintiff appeals, as limited by his brief, from an order of the Supreme Court, Queens County (Elliot, J.), dated April 30, 2009, which denied his motion to vacate the judgment of divorce pursuant to CPLR 5015(a)(2) and (3).

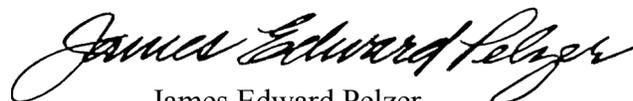
ORDERED that the order is affirmed insofar as appealed from, with costs.

The plaintiff failed to meet his burden of establishing the existence of fraud, misrepresentation, or other misconduct on the part of either the defendant or an agent of the defendant, and thus, was not entitled to vacatur of the parties' divorce judgment (*see Mohrmann v Lynch-Mohrmann*, 24 AD3d 735; *Badgett v Badgett*, 2 AD3d 379).

The plaintiff's remaining contentions are without merit.

FISHER, J.P., LEVENTHAL, BELEN and SGROI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

April 20, 2010

SHAWN TING SCHEU v FAN RU TSENG