

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

D24744
W/kmg

____AD3d____

Submitted - October 1, 2009

MARK C. DILLON, J.P.
ANITA R. FLORIO
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2008-00308

DECISION & ORDER

Wells Fargo Bank, N.A., etc., respondent,
v Leo Leiba, et al., defendants, Lisa Morris,
appellant.

(Index No. 13373/04)

Lisa Morris, Bronx, N.Y., appellant pro se.

Steven J. Baum, P.C., Amherst, N.Y. (Michael J. Wrona of counsel), for respondent.

In an action to foreclose a mortgage, the defendant Lisa Morris appeals from an order of the Supreme Court, Westchester County (Liebowitz, J.), entered December 11, 2007, which denied her motion, inter alia, to vacate a judgment of foreclosure and sale dated October 27, 2005, entered upon the defendants' default in answering the complaint.

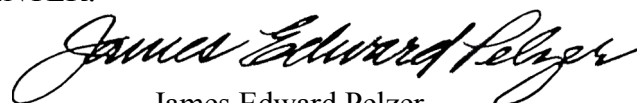
ORDERED that the order is affirmed, with costs.

The Supreme Court properly denied the motion of the defendant Lisa Morris to vacate a judgment of foreclosure and sale dated October 27, 2005, as she failed to serve the order to show cause by which the motion was initiated in the manner specified, and within the time provided (*see* CPLR 2214[d]; *Alden Personnel, Inc. v David*, 38 AD3d 697, 698).

In view of our determination, we need not reach the parties' remaining contentions.

DILLON, J.P., FLORIO, BELEN and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 27, 2009

WELLS FARGO BANK, N.A. v LEIBA