

**SUPREME COURT OF THE STATE OF NEW YORK**  
*Appellate Division, Fourth Judicial Department*

1579

CA 08-02420

PRESENT: CENTRA, J.P., PERADOTTO, GREEN, AND PINE, JJ.

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RUBY JORDAN, FORMERLY KNOWN AS RUBY PREMO,  
PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

RICHARD PREMO, DEFENDANT-APPELLANT.

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WELDON & TRIMPER LAW FIRM, WATERTOWN, D.J. & J.A. CIRANDO, ESQS.,  
SYRACUSE (ELIZABETH deV. MOELLER OF COUNSEL), FOR DEFENDANT-APPELLANT.

HECTOR LAW OFFICE, WATERTOWN (LIONEL LEE HECTOR OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Jefferson County (Hugh A. Gilbert, J.), dated October 21, 2008. The order granted the motion of plaintiff to reopen the action for divorce.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Supreme Court properly invoked its "inherent power to exercise control over its judgments" in granting the motion of plaintiff seeking, inter alia, to reopen the underlying divorce action to address the issue of her entitlement to a share of defendant's pension (*Matter of McKenna v County of Nassau, Off. of County Attorney*, 61 NY2d 739, 742). In support of her motion, plaintiff submitted evidence establishing that the parties agreed during the trial of the divorce action that plaintiff would receive her share of defendant's pension in accordance with the formula set forth in *Majauskas v Majauskas* (61 NY2d 481) but that the judgment of divorce, prepared by defendant's attorney, did not include a provision distributing defendant's pension pursuant to the parties' agreement. Contrary to defendant's contention, the delay by plaintiff in bringing the motion did not warrant denial of the motion inasmuch as defendant was not prejudiced by the delay (*see generally Columbus Realty Inv. Corp. v D & S Roofing & Siding Corp.*, 257 AD2d 592).

Entered: February 11, 2010

Patricia L. Morgan  
Clerk of the Court