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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 190 SSM 23  
Joseph I. Rosenzweig,  
Appellant,  
v.  
Radiah K. Givens,  
Respondent.

Submitted by Marc E. Elliott, for appellant.  
Submitted by Barbara H. Katsos, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed,  
with costs, and the certified question answered in the  
affirmative.

In connection with the mortgage foreclosure action,  
defendant has alleged sufficient facts to warrant denial of

plaintiff's pre-discovery motion for summary judgment, having asserted that plaintiff, an attorney who was then her paramour, secured the mortgage through fraud and overreaching and by exploiting a fiduciary relationship with her (see generally Matter of Grieff, 92 NY2d 341, 345 [1998]). She contends that, under the guise of buying her a condominium, he induced her to enter into a mortgage arrangement whereby he was the lender and she the borrower. Furthermore, plaintiff hired a friend to represent them both at the closing. Defendant claims that plaintiff paid all expenses related to the condominium and did not seek mortgage payments or any other contribution from defendant until three years later -- after their marriage and defendant's subsequent discovery that plaintiff already had a wife and two children, rendering their marriage bigamous. Plaintiff then demanded payment, accelerated the loan and pursued foreclosure against defendant. We also conclude that defendant has stated a prima facie case of fraudulent inducement to marriage (see Blossom v Barrett, 37 NY 434 [1868]; see also, Tuck v Tuck, 14 NY2d 341, 344 [1964]).

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided September 17, 2009