

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

D12393  
Y/cb

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Argued - September 28, 2006

ANITA R. FLORIO, J.P.  
GLORIA GOLDSTEIN  
DANIEL F. LUCIANO  
ROBERT J. LUNN, JJ.

2005-05682

DECISION & ORDER

Richard Keegan, et al., respondents, v Diamond  
Property Management, Inc., et al., appellants.

(Index No. 3429/04)

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Halperin Law Firm, LLP, New York, N.Y. (Guy S. Halperin of counsel), for  
appellants.

Goldstein & Greenlaw, LLP, Kew Gardens, N.Y. (Andrew Schwarsin of counsel), for  
respondents.

In an action, inter alia, to recover damages for fraud and breach of fiduciary duty, the defendants appeal, as limited by their brief, from stated portions of an order of the Supreme Court, Queens County (Agate, J.), dated March 14, 2005, which, inter alia, denied those branches of their motion which were pursuant to CPLR 3211(a)(7) to dismiss the first and sixth causes of action in their entirety and the third and fourth causes of action insofar as purportedly asserted against the defendants Diamond Property Management, Inc., Moshe Halberstam, Pavel Butorin, Margaret Glugover, Clara Logos, Moshe Stein, and Josh Frankel, without prejudice to renew after disclosure.

ORDERED that the order is modified, on the law, by deleting the provision thereof denying that branch of the motion which was to dismiss the third and fourth causes of action insofar as purportedly asserted against the defendants Diamond Property Management, Inc., Moshe Halberstam, Pavel Butorin, Margaret Glugover, Clara Logos, Moshe Stein, and Josh Frankel, without prejudice to renew after disclosure and substituting therefor a provision denying that branch of the motion as unnecessary; as so modified, the order is affirmed insofar as appealed from, with costs to the respondents.

October 31, 2006

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We note that the third and fourth causes of action are not asserted against the defendants Diamond Property Management, Inc., Moshe Halberstam, Pavel Butorin, Margaret Glugover, Clara Logos, Moshe Stein, and Josh Frankel.

The defendants' remaining contentions are without merit

FLORIO, J.P., GOLDSTEIN, LUCIANO and LUNN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court