

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

D12415  
E/mv

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Submitted - September 13, 2006

HOWARD MILLER, J.P.  
FRED T. SANTUCCI  
GLORIA GOLDSTEIN  
PETER B. SKELOS  
ROBERT J. LUNN, JJ.

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2005-09746

DECISION & ORDER

Independence Construction Corp., plaintiff, v  
AMOCO Construction Corp., et al., defendants;  
Jon A. Lefkowitz, etc., et al., nonparty-appellants.

(Index No. 46921/02)

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Jon A. Lefkowitz, Brooklyn, N.Y., nonparty-appellant pro se, and Stuart I. Davis, Bronx, N.Y., nonparty-appellant pro se (one brief filed).

Appeal by Jon A. Lefkowitz and Stuart I. Davis from an order of the Supreme Court, Kings County (Belen, J.), dated August 20, 2004, which, sua sponte, imposed sanctions upon them pursuant to 22 NYCRR 130-2.1(b).

ORDERED that the appeal is dismissed, without costs or disbursements.

The order dated August 20, 2004, is not appealable as of right, as no appeal lies as of right from an order that does not decide a motion made on notice (*see* CPLR 5701[a][2]) and no application for leave to appeal was made (*see* CPLR 5701[c]). In any event, the record is inadequate to determine the appeal on the merits (*see Cuffie v New York City Health & Hosps. Corp.*, 260 AD2d 423).

MILLER, J.P., SANTUCCI, GOLDSTEIN, SKELOS and LUNN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

October 31, 2006

INDEPENDENCE CONSTRUCTION CORP. v AMOCO CONSTRUCTION CORP.