

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

D12965
E/mv

_____AD3d_____

Argued - November 20, 2006

THOMAS A. ADAMS, J.P.
DAVID S. RITTER
STEVEN W. FISHER
JOSEPH COVELLO, JJ.

2005-01175

DECISION & ORDER

Peerless Abstract Corp., et al., respondents,
v Regina Seltzer, et al., appellants.

(Index No. 21613/04)

Gloria May Rosenblum, East Islip, N.Y., for appellants.

Pruzansky & Besunder, LLP, Islandia, N.Y. (Harvey B. Besunder and Marissa R. Dubey of counsel), for respondents.

In an action to recover damages for abuse of process, the defendants appeal, as limited by their brief, from so much of an order of the Supreme Court, Suffolk County (Costello, J.), dated January 7, 2005, as denied their motion pursuant to CPLR 3211 to dismiss the complaint and granted that branch of the plaintiffs' cross motion which was for summary judgment on the issue of liability against the defendant Regina Seltzer.

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

In light of our determination on the related appeal that the defendant Regina Seltzer's motion for summary judgment dismissing the complaint insofar as asserted against her as time barred should have been granted (*see Peerless Abstract Corp. v Seltzer*, _____AD3d_____ [Appellate Division Docket No. 2006-02189, decided herewith]), and, in light of the Supreme Court's granting of the motion of the remaining defendants for summary judgment dismissing the complaint insofar as asserted against them as time barred, the instant appeal has been rendered academic.

ADAMS, J.P., RITTER, FISHER and COVELLO, JJ., concur.

ENTER:


James Edward Delaney
Clerk of the Court

December 5, 2006

PEERLESS ABSTRACT CORP. v SELTZER