

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

D13807
X/mv

_____AD3d_____

Argued - December 19, 2006

REINALDO E. RIVERA, J.P.
GABRIEL M. KRAUSMAN
GLORIA GOLDSTEIN
ROBERT J. LUNN, JJ.

2005-00347

DECISION & ORDER

In the Matter of David J. Ciruolo, etc., respondent;
Whitey Produce Co., Inc., et al., appellants.

(File No. 1432/00)

Borchert, Genovesi, LaSpina & Landicino, P.C., Whitestone, N.Y. (Anthony J. Genovesi, Jr., of counsel), for appellants.

Blank Rome LLP, New York, N.Y. (Edward L. Sadowsky and Cynthia B. Lovinger of counsel), for respondent.

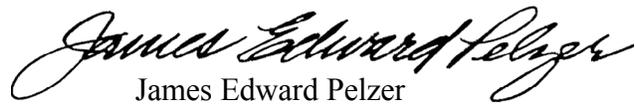
In a proceeding, inter alia, pursuant to SCPA 2103 to discover property and information withheld from the estate of Caroline Ciruolo, Whitey Produce Co., Inc., and Dorothea J. Ciruolo, as executrix of the estate of Charles J. Ciruolo, Sr., appeal from an order of the Surrogate's Court, Kings County (Feinberg, S.), dated November 10, 2004, which denied their cross motion for summary judgment dismissing the petition.

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

In light of our determination on the related appeal (*see Matter of Ciruolo*, _____ AD3d _____ [Appellate Division Docket No. 2006-03365, decided herewith]), the instant appeal has been rendered academic.

RIVERA, J.P., KRAUSMAN, GOLDSTEIN and LUNN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

February 6, 2007

MATTER OF CIRAOLO; WHITEY PRODUCE CO., INC.