

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

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Submitted - February 16, 2007

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2006-00978

DECISION & ORDER

Thomas G. Voss, et al., appellants, v
Rockland County Community College,
et al., respondents.

(Index No. 3725/04)

Daniel E. Bertolino, P.C., Upper Nyack, N.Y., for appellants.

Patterson Belknap Webb & Tyler, LLP, New York, N.Y. (John D. Winter and Adam
J. Pessin of counsel), for respondents.

In an action, inter alia, to recover damages for breach of contract, the plaintiffs appeal from an order of the Supreme Court, Rockland County (Weiner, J.), dated December 21, 2005, which denied their motion for summary judgment and granted the defendants' cross motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

Education Law § 6306(2) states, in relevant part, that “[t]he board of trustees of each community college shall appoint a president for the college, subject to approval by the state university trustees” (*see also* 8 NYCRR 600.2). Here, the plaintiffs failed to establish, prima facie, that they were entitled to summary judgment (*see Zuckerman v City of New York*, 49 NY2d 557). In contrast, the defendants made a prima facie showing of their entitlement to summary judgment dismissing the cause of action to recover damages for breach of contract, as the State University of New York Board of Trustees did not approve the contract seeking to extend the appointment of the plaintiff Thomas G. Voss as the interim community college president. In opposition, the plaintiffs failed to

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raise a triable issue of fact. Consequently, the Supreme Court properly summarily dismissed the plaintiffs' remaining causes of action to recover damages for tortious interference with contractual relations and to recover litigation costs and attorneys' fees, as those causes of action were predicated upon the invalid contract.

In light of our determination, the parties' remaining contentions have been rendered academic.

RIVERA, J.P., SANTUCCI, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court