

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

D15478
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Submitted - May 3, 2007

ROBERT A. SPOLZINO, J.P.
PETER B. SKELOS
MARK C. DILLON
WILLIAM E. McCARTHY, JJ.

2006-08456

DECISION & ORDER

Gila E. Fortinsky, et al., appellants, v Shlomo
Freidfertig, respondent.

(Index No. 02773/05)

Shearman & Sterling, LLP, New York, N.Y. (Jerome S. Fortinsky pro se and Brian G. Burke of counsel), for appellants.

Warren T. Goz & Associates, P.C., Rye Brook, N.Y. (Andrew Rotstein of counsel),
for respondent.

In an action, inter alia, to recover damages for breach of contract, the plaintiffs appeal from an amended order of the Supreme Court, Westchester County (LaCava, J.), entered May 19, 2006, which, sua sponte, removed the matter to the Village Court of the Village of Scarsdale.

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

The amended order entered May 19, 2006, 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 we decline to grant leave to appeal (*see* CPLR 5701[c]).

SPOLZINO, J.P., SKELOS, DILLON and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 12, 2007

FORTINSKY v FREIDFERTIG