

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

D16271
X/cb

_____AD3d_____

Argued - June 8, 2007

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
ANITA R. FLORIO
DANIEL D. ANGIOLILLO, JJ.

2005-10137

DECISION & ORDER

Parola, Gross & Marino, P.C., respondent, v Horst
Susskind, appellant.

(Index No. 05-002735)

Meier Franzino Scher LLP, New York, N.Y. (Steven K. Meier of counsel) and Denise Mortner Kranz, New York, N.Y., for appellant (one brief filed).

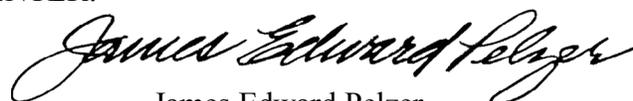
Parola, Gross & Marino, P.C., Wantagh, N.Y., pro se, and Kaufman Borgeest & Ryan LLP, New York, N.Y. (A. Michael Furman and Yael J. Wepman of counsel), for respondent (one brief filed).

In an action, inter alia, to recover legal fees, the defendant appeals from an order of the Supreme Court, Nassau County (Brennan, J.), entered September 15, 2005, which granted the plaintiff's motion to dismiss his counterclaims pursuant to CPLR 3211.

ORDERED that the appeal from the order is dismissed, with costs, as that order was superseded by an order of the same court entered May 18, 2006, made upon reargument (*see Parola, Gross & Marino, P.C. v Susskind*, _____AD3d_____) [Appellate Division Docket No. 2006-06486, decided herewith].

SPOLZINO, J.P., SANTUCCI, FLORIO and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 18, 2007

PAROLA, GROSS & MARINO, P. C. v SUSSKIND