

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

D16785
W/kmg

_____AD3d_____

Submitted - October 11, 2007

A. GAIL PRUDENTI, P.J.
STEVEN W. FISHER
MARK C. DILLON
EDWARD D. CARNI, JJ.

2006-00604

DECISION & ORDER

Wesley Cooper, respondent, v
40 Clarkson Avenue Owners Corp.,
et al., appellants.

(Index No. 13326/04)

Curan, Ahlers, Fiden & Norris, LLP, White Plains, N.Y. (Charles B. Norris of
counsel), for appellants.

In an action to recover damages for personal injuries, the defendants appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Hurkin-Torres, J.), dated January 3, 2006, as denied that branch of their motion which was for summary judgment dismissing the complaint.

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

The appeal from the order must be dismissed because the right of direct appeal therefrom terminated with the entry of judgment in the action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on appeal from the order are brought up for review and have been considered on the appeal from the judgment (*see CPLR 5501[a][1]; Cooper v 40 Clarkson Ave. Owners Corp.*, _____AD3d_____ [Appellate Division Docket No. 2006-05796, decided herewith]).

PRUDENTI, P.J., FISHER, DILLON and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 13, 2007

COOPER v 40 CLARKSON AVENUE OWNERS CORP.