

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

D17951
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_____AD3d_____

Submitted - January 3, 2008

WILLIAM F. MASTRO, J.P.
STEVEN W. FISHER
MARK C. DILLON
WILLIAM E. McCARTHY, JJ.

2007-02582

DECISION & ORDER

Joseph Fischer, appellant, v RWSP Realty LLC, d/b/a Prudential Rand Realty, et al., defendants, Michael B. Doyle, et al., respondents.

(Index No. 922/04)

Ernest H. Hammer, New York, N.Y., for appellant.

In an action to recover a real estate broker's commission, the plaintiff appeals from an order of the Supreme Court, Rockland County (Sherwood, J.), dated January 18, 2007, which, upon granting his motion pursuant to CPLR 8404 for judicial review of taxation of costs and disbursements in the sum of \$1,300, which were awarded to the defendants Michael B. Doyle and Dolores V. Doyle in a clerk's judgment of the same court dated December 6, 2005, reduced the amount of costs awarded by the sum of only \$500 and failed to reduce the amount of disbursements awarded.

ORDERED that the order is modified, on the law, by deleting the provision thereof declining to reduce the amount of disbursements and substituting therefor a provision reducing the award of disbursements by the sum of \$350; as so modified, the order is affirmed, without costs or disbursements.

The defendants Michael B. Doyle and Dolores V. Doyle were awarded disbursements in the sum of \$350 for "[e]ntering and docketing judgment" pursuant to CPLR 8301(a)(7) and 8016(a)(2), and for "[t]ranscripts and filing" pursuant to CPLR 8021. However, absent any proper proof to support the claimed expenses, the disbursements should have been disallowed (*see National Granite Tit. Ins. Agency, Inc. v Cadlerock Props. Joint Venture, LP*, 17 AD3d 551).

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The plaintiff's remaining contentions are without merit.

MASTRO, J.P., FISHER, DILLON and McCARTHY, 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