

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

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_____AD3d_____

Argued - February 8, 2008

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2007-04321

DECISION & ORDER

Gerald Platovsky, et al., plaintiffs, v City of
New York, et al., defendants.
(Matter No. 1)

In the Matter of Gerald Platt, et al., petitioners-appellants,
v Lawfinance Group, Inc., et al., respondents; Vicki-Jo
Platovsky, nonparty-appellant.
(Matter No. 2)

(Index Nos. 15745/88, 36026/06)

Kelner and Kelner, New York, N.Y. (Gerard K. Ryan, Jr., Ronald C. Burke, and
Joshua D. Kelner of counsel), appellant pro se and for remaining appellants.

Napoli Bern Ripka, LLP, New York, N.Y. (Denise A. Rubin of counsel), for
respondents Lawfinance Group, Inc., and Law Investment Company, LLC.

Beldock, Levine & Hoffman, LLP, New York, N.Y. (Robert L. Herbst, respondent
pro se, Myron Beldock, Rachel M. Kleinman, and Longo & D'Apice [Mark Longo]
of counsel), respondent pro se.

In an action to recover damages for personal injuries, etc., and a related proceeding,
inter alia, pursuant to CPLR article 75 to permanently stay arbitration, the petitioners Gerald Platt
and Kelner & Kelner, Esqs., and Vicki-Jo Platovsky, a nonparty, appeal, as limited by their brief, from
so much of an order of the Supreme Court, Kings County (Kramer, J.), dated April 23, 2007, as, in

March 25, 2008

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effect, denied that branch of the petitioners' motion which was for summary judgment declaring that Robert Herbst, Esq., and Beldock Levine & Hoffman, LLP, are not entitled to an attorney's fee in connection with the action, denied the petition, and directed the parties to proceed to arbitration.

ORDERED that the appeal by Vicki-Jo Platovsky is dismissed, without costs or disbursements, as she is not aggrieved by the order appealed from (*see* CPLR 5511); and it is further,

ORDERED that the order is affirmed insofar as appealed from; and it is further,

ORDERED that one bill of costs is awarded to the respondents.

When determining whether a particular dispute is arbitrable, a court must determine whether the dispute "falls within the scope of the arbitration agreement" (*Maross Constr. v Central N.Y. Regional Transp. Auth.*, 66 NY2d 341, 345), and whether the dispute "is one that may be submitted to arbitration without violation of any law or public policy" (*id.* at 346). Since the dispute over the entitlement of the respondents Robert Herbst, Esq., and Beldock Levine & Hoffman, LLP, to an attorney's fee in connection with the underlying personal injury action, falls within the scope of the broad arbitration clause contained in the contract at issue (*see Matter of Nationwide Gen. Ins. Co. v Investors Ins. Co. of Am.*, 37 NY2d 91, 96), and since no law or public policy precludes arbitration of that dispute (*see Matter of Sprinzen [Nomberg]*, 46 NY2d 623, 630), the Supreme Court properly concluded that the dispute was arbitrable.

The appellants' remaining contentions are without merit.

MASTRO, J.P., COVELLO, ENG and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court