

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

D19137
X/hu

_____AD3d_____

Argued - September 25, 2007

ROBERT A. LIFSON, J.P.
DAVID S. RITTER
FRED T. SANTUCCI
MARK C. DILLON, JJ.

2006-02295

DECISION & ORDER

Jadadic Adzer, et al., appellants, v Rudin Management Co., Inc., et al., respondents, et al., defendants (and a third-party action).

(Index No. 11847/03)

Bergman, Bergman, Goldberg & LaMonsoff, LLP (Pollack, Pollack, Isaac & De Cicco, New York, N.Y. [Brian J. Isaac], of counsel), for appellants.

Herzfeld & Rubin, P.C., New York, N.Y. (Miriam Skolnik and David B. Hamm of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal, as limited by their brief, from stated portions of an order of the Supreme Court, Queens County (Weiss, J.), dated January 23, 2006, which, upon striking the answer of the defendants Rudin Management Co., Inc., and Three Times Square Center Partners, LLP, inter alia, denied that branch of their motion which was, in effect, for leave to enter a default judgment against those defendants on the issue of liability and thereafter for an inquest on the issue of damages.

ORDERED that the appeal is dismissed as academic, without costs or disbursements, in light of our determination on a companion appeal (*see Adzer v Rudin Mgt. Co., Inc.*, _____ AD3d _____ [Appellate Division Docket No. 2006-06894, decided herewith]).

LIFSON, J.P., RITTER, SANTUCCI and DILLON, JJ., concur.

2006-02295

DECISION & ORDER ON MOTION

Jadadic Adzer, et al., appellants, v Rudin Management Co., Inc., et al., respondents, et al., defendants (and a third-party action).

(Index No. 11847/03)

Motion by the respondents, inter alia, to dismiss the appeal from an order of the Supreme Court, Queens County, dated January 23, 2006, on the ground that the order was superseded by a subsequent order of the same court dated June 7, 2006. By decision and order on motion of this Court dated February 9, 2007, that branch of the motion which was to dismiss the appeal from the order dated January 23, 2006, was held in abeyance and referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, the papers filed in opposition thereto, and upon the argument of the appeal, it is

ORDERED that the branch of the motion to dismiss the appeal from the order dated January 23, 2006, is denied as academic in light of our determination on the appeal.

LIFSON, J.P., RITTER, SANTUCCI and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court