

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

D19180
C/prt

_____AD3d_____

Argued - March 17, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
MARK C. DILLON
RUTH C. BALKIN, JJ.

2007-00854

DECISION & ORDER

Almeida Oil Co., Inc., et al., plaintiffs, v Singer Holding Corp., defendant third-party plaintiff-respondent; West Vernon Petroleum Corp., third-party defendant-appellant.

(Index No. 1829/03)

Robert A. Roseman, New York, N.Y., for third-party defendant-appellant.

Gallet Dreyer & Berkey, LLP, New York, N.Y. (David S. Douglas of counsel), for defendant third-party plaintiff-respondent.

Jeffrey S. Greene (Sanford F. Young, P.C., New York, N.Y., of counsel), for plaintiffs.

In an action to recover damages for breach of contract, the third-party defendant appeals from so much of an order of the Supreme Court, Westchester County (Colabella, J.), entered December 19, 2006, as denied its cross motion for summary judgment dismissing the third-party complaint.

ORDERED that the appeal is dismissed as academic, without costs or disbursements, in light of our determination in *Almeida Oil Co. v Singer Holding Corp.* (_____AD3d_____ [Appellate Division Docket No. 2006-09173, decided herewith]).

RIVERA, J.P., SPOLZINO, DILLON and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 6, 2008

ALMEIDA OIL CO., INC. v SINGER HOLDING CORP.