

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

D20062  
X/cb

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ROBERT A. SPOLZINO, J.P.  
STEVEN W. FISHER  
EDWARD D. CARNI  
THOMAS A. DICKERSON, JJ.

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2008-04927

DECISION & JUDGMENT

In the Matter of Sandra Parker, petitioner, v  
Anthony J. Brandveen, etc., et al., respondents.

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Keith S. Barnett, New York, N.Y., for petitioner.

Jeffrey W. Waller, LLC, Hauppauge, N.Y., for respondent Quality Ceramic Tile &  
Marble Co., Ltd.

Proceeding pursuant to CPLR article 78 in the nature of prohibition, in effect, to prohibit the respondents from enforcing an order of the Supreme Court, Nassau County (Brandveen, J.), dated February 27, 2008, in an action entitled *Quality Ceramic Tile & Marble Co., Ltd. v Cherry Valley Limited Partnership*, pending in the Supreme Court, Nassau County, under Index No. 21616/93.

ADJUDGED that the petition is denied and the proceeding is dismissed, without costs or disbursements.

"Because of its extraordinary nature, prohibition is available only where there is a clear legal right, and then only when a court – in cases where judicial authority is challenged – acts or threatens to act either without jurisdiction or in excess of its authorized powers" (*Matter of Holtzman v Goldman*, 71 NY2d 564, 569; see *Matter of Rush v Mordue*, 68 NY2d 348, 352). The petitioner has failed to demonstrate a clear legal right to the relief sought.

SPOLZINO, J.P., FISHER, CARNI and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

September 9, 2008

MATTER OF PARKER v BRANDVEEN