

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

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_____AD3d_____

Argued - May 9, 2008

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
ROBERT A. LIFSON
JOHN M. LEVENTHAL, JJ.

2007-03921

DECISION & ORDER

In the Matter of Beneficiary, Irving G. Kates New York Trust, Sandra Barash, et al., appellants, v Northern Trust Corporation, respondent.

(Index No. 1713/07)

Beneficiary, Irving G. Kates New York Trust, Sandra Barash, and Executor, Celia Kates New York Estate, Philip Barash, Muttontown, N.Y., appellants pro se.

Katten Muchin Rosenman, LLP, New York, N.Y. (Jay W. Freiberg and Catherine G. Patsos of counsel), for respondent.

In a proceeding pursuant to CPLR article 77, the petitioners appeal, as limited by their brief, from so much of an order of the Supreme Court, Nassau County (Palmieri, J.), dated April 20, 2007, as granted those branches of the respondent's motion which were to dismiss the petition and to enjoin them from commencing further litigation against the respondent without the express written permission of the court.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The Supreme Court properly enjoined the petitioners from commencing further litigation against the respondent, Northern Trust Corporation, without the express written permission of the court. Notwithstanding their status as pro se litigants, the petitioners were determined to litigate issues in this proceeding that they had preferred not to raise, but which could have been or were raised, in the Florida Probate Court (*see Matter of Robert v O'Meara*, 28 AD3d 567, 568;

August 19, 2008

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Braten v Finkelstein, 235 AD2d 513, 514). This determination to relitigate includes the recent action in the Supreme Court, the dismissal of which is the subject of the order appealed from in the companion case (*see Barash v Northern Trust Corp.*, _____AD3d_____ [decided herewith]).

The petitioners' remaining contentions are without merit.

MASTRO, J.P., SKELOS, LIFSON and LEVENTHAL, 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