

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

D20639
W/kmg

_____AD3d_____

Submitted - September 17, 2008

STEVEN W. FISHER, J.P.
ROBERT A. LIFSON
JOSEPH COVELLO
RUTH C. BALKIN
ARIEL E. BELEN, JJ.

2007-11554

DECISION & ORDER

Brae Burn Country Club, Inc., appellant,
v Michael Galluzzo, respondent.

(Index No. 23519/06)

Parisi & Patti, LLP, White Plains, N.Y. (Cheryl K. Beece of counsel), for appellant.

Bernbach Law Firm, PLLC, White Plains, N.Y. (Jeffrey M. Bernbach of counsel), for respondent.

In an action to recover damages for breach of an employment severance contract, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Westchester County (Nastasi, J.), entered November 20, 2007, as denied its cross motion to impose a sanction upon the defendant and, sua sponte, imposed a sanction upon the plaintiff's attorney in the sum of \$100.

ORDERED that the appeal from so much of the order as, sua sponte, imposed a sanction upon the plaintiff's attorney is dismissed, as the plaintiff is not aggrieved by that portion of the order (*see* CPLR 5511); and it is further,

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

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

The Supreme Court providently exercised its discretion in denying the plaintiff's cross

October 7, 2008

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motion to impose a monetary sanction upon the defendant pursuant to 22 NYCRR 130-1.1.

The plaintiff is not aggrieved by that portion of the order which, sua sponte, imposed a sanction upon the plaintiff's attorney (*see* CPLR 5511; *Matter of Griffin v Panzarin*, 305 AD2d 601, 603; *Green v Green*, 288 AD2d 436, 438; *Katz v Katz*, 279 AD2d 454). In any event, that portion of the order is not appealable as of right, as it did not decide a motion made on notice (*see* CPLR 5701[a][2]; *Sholes v Meagher*, 100 NY2d 333, 335; *Bajrovic v Jeff Anders Trucking*, 52 AD3d 553; *Wall St. Mail Pick Up Serv., Inc. v Lancer Ins. Co.*, 44 AD3d 851; *Lewis v City of New York*, 2 AD3d 597, 599), and we decline to grant leave to appeal to the plaintiff's attorney, who did not file a notice of appeal on his own behalf.

The plaintiff's remaining contentions are without merit.

FISHER, J.P., LIFSON, COVELLO, BALKIN and BELEN, 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