

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

D20946
Y/kmg

_____AD3d_____

Argued - October 7, 2008

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
FRED T. SANTUCCI
EDWARD D. CARNI, JJ.

2007-05366

DECISION & ORDER

Cliff Connors, et al., appellants, v
Michael K. J. Phillip, et al., respondents.

(Index No. 25914/92)

Neal Law Offices, Woodhaven, N.Y. (William S. Neal of counsel), for appellants.

Farber Brocks & Zane LLP, Mineola, N.Y. (Audra S. Zane of counsel), for
respondent Travelers Insurance Co.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Kings County (Bunyan, J.), dated May 2, 2007, which denied their renewed motion, in effect, to reject a referee's report dated July 29, 2003, recommending that the plaintiffs' motion to set aside a stipulation of settlement made in open court on April 1, 1996, be denied.

ORDERED that the order is affirmed, with costs.

The plaintiffs waited more than three years to move, in effect, to reject the referee's report (*see* CPLR 4403). The motion was untimely and, therefore, upon renewal, it was properly denied.

SPOLZINO, J.P., RITTER, SANTUCCI and CARNI, JJ., concur.

November 5, 2008

Page 1.

CONNORS v PHILLIP

2007-05366

DECISION & ORDER ON MOTION

Cliff Connors, et al., appellants, v
Michael K. J. Phillip, et al., respondents.

(Index No. 25914/92)

Motion by the respondent Michael K.J. Phillip on an appeal from an order of the Supreme Court, Kings County, dated May 2, 2007, inter alia, to dismiss the appeal as against him on the ground that he is not a proper respondent on the appeal. By decision and order on motion of this Court dated February 5, 2008, that branch of the motion 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 files in opposition thereto, and upon the argument of the appeal, it is

ORDERED that the branch of the motion which was to dismiss the appeal as against the respondent Michael K. J. Phillip is denied.

SPOLZINO, J.P., RITTER, SANTUCCI and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court