

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

D22210
W/prt

_____AD3d_____

Submitted - January 26, 2009

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
RANDALL T. ENG, JJ.

2007-07326

DECISION & ORDER

Reilly Green Mountain Platform Tennis, et al.,
appellants, v Sandy Cortese, et al., respondents,
et al., defendant.

(Index No. 12795/06)

Schiavetti, Corgan, DiEdwards & Nicholson, LLP, White Plains, N.Y. (Keith A. J. Dewar of counsel), for appellants.

Kaye Scholer LLP, New York, N.Y. (Glen J. Pogust of counsel), for respondents.

In an action, inter alia, to recover damages for negligent misrepresentation, the plaintiffs appeal, as limited by their brief, from so much of an order of the Supreme Court, Westchester County (Scheinkman, J.), entered August 6, 2007, as, among other things, denied that branch of their motion pursuant to CPLR 3124 which was to compel the production of documents.

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

“The supervision of disclosure and the setting of reasonable terms and conditions therefor rests within the sound discretion of the trial court and, absent an improvident exercise of that discretion, its determination will not be disturbed” (*Mattocks v White Motor Corp.*, 258 AD2d 628, 629 [internal citations omitted]; see *Gilman & Ciocia, Inc. v Walsh*, 45 AD3d 531). Under the circumstances of this case, the Supreme Court providently exercised its discretion in denying that branch of the plaintiffs’ motion which was to compel the production of documents (see *Gilman & Ciocia, Inc. v Walsh*, 45 AD3d 531).

February 24, 2009

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The plaintiffs' remaining contention has been rendered academic.

SPOLZINO, J.P., SANTUCCI, ANGIOLILLO and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court