

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

D22362
W/hu

_____AD3d_____

Argued - February 3, 2009

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
DAVID S. RITTER
HOWARD MILLER, JJ.

2007-11079

DECISION & ORDER

John Iodice, et al., respondents, v City of White
Plains, appellant, et al., defendants.

(Index No. 15515/99)

Joseph A. Maria, P.C., White Plains, N.Y., for appellant.

In an action, inter alia, to recover damages for injury to property, the defendant City of White Plains appeals from an order of the Supreme Court, Westchester County (O. Bellantoni, J.), entered November 18, 2007, which granted the plaintiffs' motion, among other things, to adjudicate it in contempt of court to the extent of directing a hearing on the issue of its alleged violation of an order entered May 31, 2007.

ORDERED that the appeal is dismissed, without costs or disbursements.

An order directing a judicial hearing on a motion to adjudicate a party in contempt does not decide the motion, nor does it affect a substantial right (*see* CPLR 5701[a][2][v]) and is, therefore, not appealable as a matter of right (*see Sloboda v Sloboda*, 24 AD3d 533, 534; *Liebling v Yankwitt*, 109 AD2d 780). Moreover, we decline to grant leave to appeal from the order. Accordingly, the instant appeal must be dismissed (*see Kornblum v Kornblum*, 34 AD3d 749, 751; *Palma v Palma*, 101 AD2d 812).

RIVERA, J.P., SPOLZINO, RITTER and MILLER, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

March 10, 2009

IODICE v CITY OF WHITE PLAINS