

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

D22869
O/prt

_____AD3d_____

Argued - December 15, 2008

FRED T. SANTUCCI, J.P.
DANIEL D. ANGIOLILLO
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2008-01406

DECISION & ORDER

Analisa Salon, Ltd., d/b/a Susan Marlowe Figure Salon, plaintiff, v Elide Properties, LLC, defendant third-party plaintiff-appellant, et al., defendants; Rocco V. Salerno, Jr., third-party defendant-respondent.

(Index No. 7582/05)

DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, White Plains, N.Y. (Lee S. Wiederkehr, Richard D. Bemporad, and Michael J. Schwartz of counsel), for defendant third-party plaintiff-appellant.

Housman & Associates, P.C., Tarrytown, N.Y. (Mark E. Housman of counsel), for third-party defendant-respondent.

In an action, inter alia, to recover damages for unlawful eviction, and a related third-party action to recover damages for legal malpractice, the defendant third-party plaintiff appeals from an order of the Supreme Court, Westchester County (O. Bellantoni, J.), entered January 28, 2008, which granted the third-party defendant's motion to dismiss the amended third-party complaint pursuant to CPLR 3211(a).

ORDERED that the order is affirmed, with costs.

June 30, 2009

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ANALISA SALON, LTD., d/b/a SUSAN MARLOWE FIGURE SALON
v ELIDE PROPERTIES, LLC

Under the circumstances of this case, we agree with the Supreme Court that the third-party complaint failed to state a cause of action to recover damages for legal malpractice (*see* CPLR 3211[a][7]).

The appellant's remaining contention is without merit.

SANTUCCI, J.P., ANGIOLILLO, BELEN and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court