

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

D24151
T/hu

_____AD3d_____

Submitted - May 21, 2009

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2008-05041

DECISION & ORDER

Mohamed Keita, et al., appellants,
v United Parcel Service, et al., respondents.

(Index No. 104672/07)

Mohamed Keita, and Massa Keita, an infant by her father and natural guardian, Mohamed Keita, Staten Island, N.Y., appellants pro se.

Lester Schwab Katz & Dwyer, LLP, New York, N.Y. (Steven B. Prystowsky of counsel), for respondents United Parcel Service and Kutry B. Jerzy.

Jaffe & Asher LLP, New York, N.Y. (Marshall T. Potashner and Barak P. Cardenas of counsel), for respondents Liberty Mutual Insurance Group and Peerless Insurance.

In an action, inter alia, to recover damages for personal injuries, the plaintiffs appeal, as limited by their brief, from stated portions of an order of the Supreme Court, Richmond County (Maltese, J.), dated April 18, 2008, which, inter alia, granted the motion of the defendants United Parcel Service and Kutry B. Jerzy to dismiss the complaint insofar as asserted by the plaintiff Mohamed Keita against them.

ORDERED that the appeal is dismissed, with one bill of costs.

In two decisions and orders on motion, dated December 24, 2008, and March 12, 2009, respectively, this Court directed the plaintiffs to serve and file a supplemental record containing, inter alia, the answers to the complaint and “the notice of motion and affidavits annexed thereto, answering affidavits, if any, and reply affidavits, if any, submitted in connection with the motion that resulted in the order being appealed.” The plaintiffs have failed to do so.

August 11, 2009

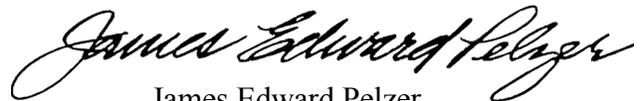
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It is the appellants' obligation to assemble a proper record on appeal (*see Salem v Mott*, 43 AD3d 397; *Cohen v Wallace & Minchenberg*, 39 AD3d 689, 689). In this regard, "[t]he record must contain all of the relevant papers that were before the Supreme Court" (*Cohen v Wallace & Minchenberg*, 39 AD3d 689; *see CPLR 5526; Matter of Allstate Ins. Co. v Vargas*, 288 AD2d 309, 310). Where, as here, meaningful appellate review of the Supreme Court's determination is made "virtually impossible" because of the incomplete nature of the record submitted, dismissal of the appeal is the appropriate disposition (*Salem v Mott*, 43 AD3d 397, 397).

RIVERA, J.P., FLORIO, BELEN and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court