

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

D24641
G/kmg

_____AD3d_____

Argued - April 21, 2009

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
THOMAS A. DICKERSON
PLUMMER E. LOTT, JJ.

2008-03562

DECISION & ORDER

Janice Worthen-Caldwell, respondent, v Special
Touch Home Care Services, Inc., et al., appellants.

(Index No. 5012/06)

Wolf Block LLP, New York, N.Y. (Kenneth K. Fisher, Richard J. Reibstein, and Herrick, Feinstein LLP [Scott E. Mollen and Carol M. Goodman], of counsel), for appellants.

Ronald Paul Hart, New York, N.Y., for respondent.

In an action, inter alia, to recover damages for sexual harassment, the defendants appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Partnow, J.), dated February 1, 2008, as denied those branches of their renewed motion which were for summary judgment dismissing the first cause of action alleging violations of Executive Law § 296 *et seq.* and the third cause of action, in effect, alleging violations of 29 USC § 2601 *et seq.*

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

The appeal from the order must be dismissed because the right of direct appeal therefrom terminated with the entry of the final judgment in this action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on the appeal from the order may be raised and reviewed on the appeal from the judgment entered May 1, 2009, pending under Appellate Division Docket No. 2009-05419.

MASTRO, J.P., SKELOS, DICKERSON and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 13, 2009

WORTHEN-CALDWELL v SPECIAL TOUCH HOME CARE SERVICES, INC.

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