

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

D24991
O/kmg

_____AD3d_____

Argued - October 20, 2009

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
HOWARD MILLER
L. PRISCILLA HALL, JJ.

2008-08672

DECISION & ORDER

Steven Kinzelberg, appellant,
v Design Quest, Ltd., et al., respondents.

(Index No. 3783/07)

Cordova & Schwartzman, LLP, Garden City, N.Y. (Jonathan B. Schwartzman of counsel), for appellant.

Richard Rubens, Bronx, N.Y., respondent pro se.

In an action, inter alia, to recover damages for breach of contract, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Nassau County (Davis, J.), entered May 14, 2008, as granted that branch of the defendants' motion which was pursuant to CPLR 1003 to the extent of adding Messardiere Design Quest, Inc., as a defendant.

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

Contrary to the plaintiff's contention, the Supreme Court did not improvidently exercise its discretion in granting that branch of the defendants' motion which was pursuant to CPLR 1003 to the extent of adding Messardiere Design Quest, Inc., as a defendant (*see Merchants Bank of N.Y. v Rosenberg*, 31 AD3d 507, 508; *Rutar v Hawes*, 157 AD2d 654).

The plaintiff's remaining contentions are without merit.

RIVERA, J.P., FLORIO, MILLER and HALL, JJ., concur.

ENTER:


James Edward Pelzer

November 10, 2009

KINZELBERG v DESIGN QUEST, LTD.

Clerk of the Court

November 10, 2009

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