

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

D27294
G/kmg

_____AD3d_____

Argued - January 11, 2010

PETER B. SKELOS, J.P.
DANIEL D. ANGIOLILLO
RUTH C. BALKIN
PLUMMER E. LOTT, JJ.

2009-00959

DECISION & ORDER

Patricia E. Benedict, etc., et al., plaintiffs-respondents,
v Whitman Breed Abbott & Morgan, etc., et al.,
defendants-respondents, Richard A. Piemonte, defendant
third-party plaintiff, et al., defendants; Patrick J. Carr, as
Executor of the Estate of Elena Duke Benedict, third-party
defendant-appellant.

(Index No. 1514/97)

Patrick J. Carr, as Executor of the Estate of Elena Duke Benedict, Scarsdale, N.Y.,
third-party defendant-appellant pro se.

Frankel & Abrams, New York, N.Y. (Stuart E. Abrams and William J. Brady III of
counsel), for plaintiffs-respondents.

Patterson Belknap Webb & Tyler, LLP, New York, N.Y. (Philip R. Forlenza of
counsel), for defendants-respondents Whitman Breed Abbott & Morgan and the
Individual defendants named in their capacities as former partners of that firm;
Bleakley Platt & Schmidt, LLP, White Plains, N.Y. (Richard F. Markert of counsel),
for defendants-respondents Whitman & Ransom and the Individual defendants named
in their capacities as former partners of that firm; and James S. Morris, White Plains,
N.Y., for defendant-respondent Estate of George J. Noumair (one brief filed).

In an action, inter alia, to recover damages for legal malpractice and breach of
fiduciary duty, the third-party defendant appeals from an order of the Supreme Court, Westchester
County (Donovan, J.), dated December 22, 2008.

ORDERED that the appeal is dismissed, as academic, with one bill of costs payable

October 26, 2010

BENEDICT v WHITMAN BREED ABBOTT & MORGAN

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to the respondents appearing separately and filing separate briefs, in light of our determination in *Benedict v Whitman Breed Abbott & Morgan* (_____ AD3d_____ [Appellate Division Docket Nos. 2009-00953, 2009-03919; decided herewith]).

SKELOS, J.P., ANGIOLILLO, BALKIN and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court