

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

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_____AD3d_____

Argued - October 12, 2010

PETER B. SKELOS, J.P.
RUTH C. BALKIN
CHERYL E. CHAMBERS
LEONARD B. AUSTIN, JJ.

2009-08095

DECISION & ORDER

Maria Nancy Pelaez, etc., plaintiff-respondent, v Laura Seide, et al., appellants, Peter Glass, defendant-respondent, et al., defendants (and a third-party action).

(Index No. 1523/98)

Wilson Elser Moskowitz Edelman & Dicker LLP, New York, N.Y. (Judy C. Selmecci and Richard E. Lerner of counsel), for appellants.

Nancy Fairchild Sachs, P.C., New York, N.Y., for plaintiff-respondent.

In an action, inter alia, to recover damages for personal injuries, the defendants Laura Seide and Gary Seide appeal from an order of the Supreme Court, Putnam County (O'Rourke, J.), dated July 22, 2009, which denied their motion for leave to renew their motion for summary judgment dismissing the complaint insofar as asserted against them, which had been determined in an order dated January 23, 2007, or, in the alternative, to compel the production of certain documents filed in the divorce proceeding of the defendant Peter Glass.

ORDERED that the order dated July 22, 2009, is affirmed, with costs.

The Supreme Court properly denied that branch of the appellants' motion which was for leave to renew their motion for summary judgment dismissing the complaint insofar as asserted against them, since the new evidence they submitted would not have warranted granting the summary judgment motion (*see* CPLR 2221[e]; *Khan v Nelson*, 68 AD3d 1062).

November 3, 2010

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The Supreme Court providently exercised its discretion in denying that branch of the appellants' motion which was to compel the production of certain documents filed in the divorce proceeding of the defendant Peter Glass, as they failed to demonstrate that access to those documents would result in the discovery of admissible or relevant evidence (*see* CPLR 3101[a]; *DeStrange v Lind*, 277 AD2d 344, 345).

SKELOS, J.P., BALKIN, CHAMBERS and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court