

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

D30058  
G/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - January 24, 2011

PETER B. SKELOS, J.P.  
THOMAS A. DICKERSON  
LEONARD B. AUSTIN  
JEFFREY A. COHEN, JJ.

2010-01091

DECISION & ORDER

Solomon Abrahams, appellant, v Commonwealth  
Land Title Insurance Company, etc., respondent.

(Index No. 22716/07)

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Solomon Abrahams, Scarsdale, N.Y., appellant pro se.

Zarin & Steinmetz, White Plains, N.Y. (David S. Steinmetz and David J. Cooper of  
counsel), for respondent.

In an action to recover damages for breach of fiduciary duty, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Westchester County (Nicolai, J.), entered December 29, 2009, as granted the defendant's motion for summary judgment dismissing the complaint.

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

The defendant established its prima facie entitlement to judgment as a matter of law by demonstrating that it did not breach its fiduciary duty, as escrow depository, to the depositor. The defendant showed that it properly disbursed escrow funds, in accordance with the terms of an escrow agreement, to the judgment creditor to satisfy a judgment for which the funds had been placed in escrow (*see Cash v Titan Fin. Servs., Inc.*, 58 AD3d 785, 790; *see generally Rut v Young Adult Inst., Inc.*, 74 AD3d 776; *Takayama v Schaefer*, 240 AD2d 21, 25). In opposition, the plaintiff failed to raise a triable issue of fact.

The plaintiff's remaining contentions are without merit.

February 15, 2011

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Accordingly, the Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint.

SKELOS, J.P., DICKERSON, AUSTIN and COHEN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court