

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

D30486  
Y/prt

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

Submitted - February 17, 2011

JOSEPH COVELLO, J.P.  
ARIEL E. BELEN  
L. PRISCILLA HALL  
JEFFREY A. COHEN, JJ.

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2009-10914

DECISION & ORDER

Nadia Thiab, et al., plaintiffs-respondents, v City of New York, et al., defendants, Hallen Construction Co., Inc., et al., appellants, HHM Associates, Inc., et al., defendants-respondents.

(Index No. 11320/02)

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Cullen and Dykman, LLP, Brooklyn, N.Y. (Anthony Ametrano of counsel), for appellants.

Morris Duffy Alonso & Faley, New York, N.Y. (Anna J. Ervolina of counsel), for defendant-respondent HHM Associates, Inc.

Wade Clark Mulcahy, New York, N.Y. (Nicole Y. Brown of counsel), for defendant-respondent Jimmy Mazza & Son Construction Corp.

In a consolidated action to recover damages for personal injuries, etc., the defendants Hallen Construction Co., Inc., New York Paving, Inc., and Keyspan Energy Corporation appeal from an order of the Supreme Court, Kings County (Velasquez, J.), dated October 16, 2009, which granted the motion of the defendant HHM Associates, Inc., and the separate motion of the defendant Jimmy Mazza & Son Construction Corp., for summary judgment dismissing the complaint and all cross claims insofar as asserted against them.

ORDERED that the appeal is dismissed, with one bill of costs.

The appellants, who are defendants in this action, are not aggrieved by those portions

March 22, 2011

THIAB v CITY OF NEW YORK

Page 1.

of the order which dismissed the complaint insofar as asserted against the defendants HHM Associates, Inc. (hereinafter HHM), and Jimmy Mazza & Son Construction Corp. (hereinafter Jimmy Mazza) (*see* CPLR 5511; *Mixon v TBV, Inc.*, 76 AD3d 144). While a defendant may be aggrieved by an order dismissing its own cross claim or third-party claim against another defendant (*see* CPLR 5511; *Mixon v TBV, Inc.*, 76 AD3d 144), the record as submitted to this Court does not disclose that the appellants asserted any cross claims or third-party claims against HHM or Jimmy Mazza. Accordingly, the appeal must be dismissed in its entirety (*see Hauser v North Rockland Cent. School Dist. No. 1*, 166 AD2d 553; *Blake Realty v Shiller*, 87 AD2d 729).

COVELLO, J.P., BELEN, HALL and COHEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court