

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

D31885
Y/kmb

_____AD3d_____

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2011-01732

DECISION & JUDGMENT

In the Matter of Windels Marx Lane & Mittendorf,
LLP, petitioner, v Arthur M. Schack, etc., et al.,
respondents.

Windels Marx Lane & Mittendorf, LLP, New York, N.Y. (Charles E. Simpson of
counsel), petitioner pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Michael J. Siudzinski of
counsel), for respondent Arthur M. Schack.

Benjamin Turner, Brooklyn, N.Y., for respondent Curtis Sylvestor.

Proceeding pursuant to CPLR article 78 in the nature of prohibition and mandamus,
inter alia, to compel Arthur M. Schack, a Justice of the Supreme Court, Kings County, to vacate an
order of the same court dated January 31, 2011.

ADJUDGED that the petition is denied and the proceeding is dismissed, without costs
or disbursements.

The extraordinary remedy of mandamus will lie only to compel the performance of a
ministerial act and only when there exists a clear legal right to the relief sought (*see Matter of Legal
Aid Socy. of Sullivan County v Scheinman*, 53 NY2d 12, 16). The petitioner has failed to
demonstrate a clear legal right to the relief sought.

RIVERA, J.P., ANGIOLILLO, ENG and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

June 28, 2011

MATTER OF WINDELS MARX LANE & MITTENDORF, LLP
v SCHACK