

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

D32141
C/kmb

_____AD3d_____

Argued - June 23, 2011

PETER B. SKELOS, J.P.
ARIEL E. BELEN
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2010-04674

DECISION & ORDER

David M. Cohen, etc., plaintiff-respondent, v Stanley Cohen, etc., appellant, Martin Cohen, etc., et al., defendants-respondents.

(Index No. 40466/08)

Certilman Balin Adler & Hyman, LLP, Hauppauge, N.Y. (Glenn B. Gruder of counsel), for appellant.

Rosenberg Calica & Birney, LLP, Garden City, N.Y. (Ronald J. Rosenberg and William J. Birney of counsel), for plaintiff-respondent.

Bracken Margolin Besunder LLP, Islandia, N.Y. (Linda U. Margolin of counsel, Kristen L. Ryan on the brief), for defendant-respondent Janet Kaplan.

In an action, inter alia, for an accounting, the defendant Stanley Cohen appeals from so much of an order of the Supreme Court, Suffolk County (Pines, J.), dated April 9, 2010, as, upon granting that branch of his motion which was for leave to renew his opposition to the plaintiff's motion for injunctive relief, adhered to its original determination in an order dated May 11, 2009, granting the plaintiff's motion.

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

Contrary to the appellant's contention, the unilateral amendment to the agreement governing The Stanley and Lorraine Cohen Family Limited Partnership, submitted by the appellant in support of his motion for leave to renew, was unauthorized under section 13 of the same agreement, which provides that amendments to the agreement that would change partners' rights and interests in partnership profits or losses may only be made with unanimous consent of the partners.

August 2, 2011

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Accordingly, the Supreme Court providently exercised its discretion in adhering to its original determination granting the plaintiff's motion for injunctive relief (*see S.J.J.K. Tennis, Inc. v Confer Bethpage, LLC*, 81 AD3d 629).

SKELOS, J.P., BELEN, HALL and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court