

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

D32471
C/prt

____AD3d____

Submitted - September 12, 2011

DANIEL D. ANGIOLILLO, J.P.
THOMAS A. DICKERSON
L. PRISCILLA HALL
JEFFREY A. COHEN, JJ.

2009-10559

DECISION & ORDER

New York Community Bank, appellant, v
Eric Fessler, respondent.

(Index No. 21653/08)

Loeb & Loeb LLP, New York, N.Y. (Helen Gavaris of counsel), for appellant.

In an action to recover on a promissory note, brought by motion for summary judgment in lieu of complaint pursuant to CPLR 3213, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Nassau County (Cozzens, Jr., J.), entered September 29, 2009, as denied its motion for summary judgment in lieu of complaint.

ORDERED that the appeal is dismissed.

The portion of the order appealed from has been superseded by an order of the same court entered April 16, 2010, made upon reargument (*see New York Community Bank v Fessler*, __ AD3d __ [Appellate Division Docket No. 2010-04429; decided herewith]). Accordingly, the appeal must be dismissed.

ANGIOLILLO, J.P., DICKERSON, HALL and COHEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

October 4, 2011

NEW YORK COMMUNITY BANK v FESSLER