

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

D33345
W/prt

_____AD3d_____

Argued - November 29, 2011

REINALDO E. RIVERA, J.P.
RUTH C. BALKIN
RANDALL T. ENG
LEONARD B. AUSTIN, JJ.

2009-11519

DECISION & ORDER

Freight Brokers Global Services, Inc., appellant,
v Robert L. Molfetta, et al., respondents.

(Index No. 20341/05)

Schrier Fiscella & Sussman, LLC, Garden City, N.Y. (Richard E. Schrier and Aaron M. Ryne of counsel), for appellant.

K & L Gates LLP, New York, N.Y. (Andrew L. Morrison, Israel E. Kornstein, Samantha J. Katze, and Anthony Laura of counsel), for respondents.

In an action, inter alia, to recover damages for tortious interference with business relations, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Queens County (Hart, J.), entered November 9, 2009, as denied those branches of its motion which were to vacate a so-ordered stipulation of settlement of the same court dated April 23, 2008, on the ground of fraud, for an award of an attorney's fee, and for the imposition of sanctions upon the defendants pursuant to Rules of the Chief Administrator of the Courts (22 NYCRR) § 130-1.1.

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

“Stipulations of settlement are favored by the courts and are not to be lightly set aside, especially where, as here, the party seeking to vacate the stipulation was represented by counsel” (*Kelley v Chavez*, 33 AD3d 590, 591 [citation omitted]; see *Hallock v State of New York*, 64 NY2d 224, 230; *Macaluso v Macaluso*, 62 AD3d 963; *Trakansook v Kerry*, 45 AD3d 673; *Town of Clarkstown v M.R.O. Pump & Tank*, 287 AD2d 497, 498). A party seeking to set aside such a stipulation will be granted such relief only upon a showing of good cause sufficient to invalidate a

December 20, 2011

Page 1.

FREIGHT BROKERS GLOBAL SERVICES, INC. v MOLFETTA

contract, such as fraud, overreaching, duress, or mistake (*see McCoy v Feinman*, 99 NY2d 295, 302; *Hallock v State of New York*, 64 NY2d at 230; *Macaluso v Macaluso*, 62 AD3d at 963; *Trakansook v Kerry*, 45 AD3d 673; *Kelley v Chavez*, 33 AD3d at 591; *Town of Clarkstown v M.R.O. Pump & Tank*, 287 AD2d at 498). Here, contrary to the plaintiff's contention, the Supreme Court properly determined that its submissions failed to demonstrate good cause to set aside the parties' so-ordered stipulation of settlement.

The Supreme Court providently exercised its discretion in denying those branches of the plaintiff's motion which were for an award of an attorney's fee and for the imposition of sanctions upon the defendants. The plaintiff failed to demonstrate that the defendants' conduct was frivolous within the meaning of Rules of the Chief Administrator of the Courts (22 NYCRR) § 130-1.1(c).

RIVERA, J.P., BALKIN, ENG and AUSTIN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court