

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

D33650
G/prt

_____AD3d_____

Argued - December 15, 2011

WILLIAM F. MASTRO, A.P.J.
RUTH C. BALKIN
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2010-06135

DECISION & ORDER

Lisa Minor, etc., respondent, v Combo Stores
Company, et al., appellants, et al., defendant.

(Index No. 16437/09)

Dollinger, Gonski & Grossman, Carle Place, N.Y. (Michael J. Spithogiannis of
counsel), for appellants.

Robert A. Ross, Huntington, N.Y. (Theresa M. Mahlstadt of counsel), for respondent.

In an action, inter alia, for an accounting, the defendants Combo Stores Company, P & S Realty Company, Sons Realty Company, Initial Realty Company, Flatlands Management Company, Queens Syndicate Company, Cambridge V, LLC, Quincy V, LLC, Victor Vitlin, Janice Sheinberg, and Robert Feinerman appeal, as limited by their notice of appeal and brief, from so much of an order of the Supreme Court, Nassau County (Bucaria, J.), entered May 18, 2010, as denied that branch of their cross motion which was to disqualify the plaintiff's attorney.

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

Six of the appellants, the defendants Combo Stores Company, P & S Realty Company, Sons Realty Company, Initial Realty Company, Flatlands Management Company, and Queens Syndicate Company (hereinafter collectively the Partnerships), were New York general partnerships that owned and operated commercial real property in this State. Shirley Cooperman, a partner in the Partnerships, died on September 20, 2000. Her children, Lisa Minor, Ellen Abrams (through a trust), and Stephen Cooperman each received a one-third beneficial interest in Shirley Cooperman's estate, which included her interests in the Partnerships. Following Shirley

Cooperman's death, Stephen Cooperman acted for a period as managing partner of the Partnerships prior to his own death on February 18, 2008. During this period, the plaintiff's current counsel, Robert A. Ross, represented Stephen Cooperman in his individual capacity in various matters, some of which involved the Partnerships.

In the instant action, the appellants, inter alia, moved to disqualify the plaintiff's counsel because of an alleged conflict of interest that arose from his prior representation of Stephen Cooperman. Contrary to the appellants' contention, the Supreme Court properly denied this motion, since, in the prior matters, Ross represented only Stephen Cooperman, and the appellants failed to establish that the Partnerships had an attorney-client relationship with Ross (*see Bloom v Hensel*, 59 AD3d 1026, 1027; *Jane St. Co. v Rosenberg & Estis*, 192 AD2d 451).

The appellants' remaining contentions are without merit.

MASTRO, A.P.J., BALKIN, CHAMBERS and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court