

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

D34513
W/kmb

_____AD3d_____

Argued - February 24, 2012

WILLIAM F. MASTRO, A.P.J.
L. PRISCILLA HALL
PLUMMER E. LOTT
SANDRA L. SGROI, JJ.

2010-10520

DECISION & ORDER

Rosemarie Schlecker, etc., appellant, v Yorktown
Electrical & Lighting Distributors, Inc., respondent,
et al., defendant.
(Action No. 1)

Yorktown Distributors, Inc., et al., plaintiffs/counterclaim
defendants-respondents, et al., plaintiffs v Rosemarie
Schlecker, etc., defendant/counterclaim plaintiff-
appellant.
(Action No. 2)

(Index Nos. 18939-95, 4461-05)

Feeney & Associates, PLLC, Hauppauge, N.Y. (Rosa M. Feeney of counsel), for
appellant in Action No. 1 and defendant/counterclaim plaintiff-appellant in Action
No. 2.

Sarisohn Law Partners, LLP, Commack, N.Y. (Floyd Sarisohn and Marvin Waxner
of counsel), for respondent in Action No. 1 and plaintiff/counterclaim defendant-
respondent Yorktown Distributors, Inc., in Action No. 2.

In an action and a related consolidated action, inter alia, for a judgment declaring the
rightful beneficiary of the proceeds of a life insurance policy, Rosemarie Schlecker, the plaintiff in
Action No. 1 and the defendant/counterclaim plaintiff in Action No. 2, appeals, as limited by her
brief, from so much of an order of the Supreme Court, Suffolk County (Pines, J.), dated September
13, 2010, as declined to search the record and sua sponte award her summary judgment on the
complaint in Action No. 1, and determined that there had been no sale of a certain business.

April 10, 2012

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SCHLECKER v YORKTOWN ELECTRICAL & LIGHTING DISTRIBUTORS, INC.
YORKTOWN DISTRIBUTORS, INC. v SCHLECKER

ORDERED that the appeal is dismissed, with costs.

The appellant is not aggrieved by so much of the order as declined to search the record and sua sponte award her summary judgment on the complaint in Action No. 1 (*see* CPLR 5511; *Franklin v Allen Health Care Servs.*, 45 AD3d 637; *QDR Consultants & Dev. Corp. v Colonia Ins. Co.*, 251 AD2d 641). “[A party] is not aggrieved by an order which does not grant relief [he or she] did not request” (*QDR Consultants & Dev. Corp. v Colonia Ins. Co.*, 251 AD2d at 641; *cf. Coleman v Hayes*, 294 AD2d 458, 459; *Rhinebeck Bicycle Shop v Sterling Ins. Co.*, 151 AD2d 122, 124).

Furthermore, the appellant is not aggrieved by so much of the order as, in reaching a result which was not adverse to her, reasoned that there was not a “sale of the business.” “Merely because the order appealed from contains language or reasoning that a party deems adverse to its interests does not furnish ‘a basis for standing to take an appeal’” (*Castaldi v 39 Winfield Assoc., LLC*, 22 AD3d 780, 781, quoting *Pennsylvania Gen. Ins. Co. v Austin Powder Co.*, 68 NY2d 465, 472).

Since the appellant is not aggrieved by the portions of the order from which she appeals, the appeal must be dismissed.

MASTRO, A.P.J., HALL, LOTT and SGROI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court