

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

D34547
N/prt

_____AD3d_____

Submitted - February 21, 2012

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
SHERI S. ROMAN
JEFFREY A. COHEN, JJ.

2010-11275

DECISION & ORDER

Sharon Altonen, et al., respondents, v Kmart of
NY Holdings, Inc., et al., appellants.

(Index No. 10953/07)

Simmons Jannace, LLP, Syosset, N.Y. (Michael D. Kern of counsel), for appellants.

Schwartz Goldstone & Campisi, LLP (Annette G. Hasapidis, South Salem, N.Y., of
counsel), for respondents.

In an action to recover damages for personal injuries, etc., the defendants appeal, as
limited by their brief, from so much of an order of the Supreme Court, Suffolk County (Cohalan, J.),
dated March 31, 2010, as denied their cross motion to compel the plaintiffs to produce a settlement
agreement from certain prior actions.

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

The Supreme Court providently exercised its discretion in denying the defendants'
cross motion to compel production of a confidential settlement agreement from certain prior personal
injury actions unrelated to this action, as the settlement agreement is not material and necessary to
their defense of this action (*see* CPLR 3101[a]; *Allstate Ins. Co. v Belt Parkway Imaging, P.C.*, 70
AD3d 530; *Matter of New York County Data Entry Worker Prod. Liab. Litig.*, 222 AD2d 381).

RIVERA, J.P., LEVENTHAL, ROMAN and COHEN, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

April 17, 2012

ALTONEN v KMART OF NY HOLDINGS, INC.