

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

D34603
O/prt

_____AD3d_____

Submitted - March 13, 2012

PETER B. SKELOS, J.P.
MARK C. DILLON
RANDALL T. ENG
LEONARD B. AUSTIN, JJ.

2011-02900

DECISION & ORDER

In the Matter of Queller, Fisher, Washor, Fuchs
& Kool, LLP, appellant, v Law Offices of
Lawrence P. Biondi, respondent.

(Index No. 26320/10)

Ephrem J. Wertenteil, New York, N.Y., for appellant.

Lawrence P. Biondi (Lisa M. Comeau, Garden City, N.Y., of counsel), for
respondent.

In a proceeding to allocate an attorney's fee pursuant to Judiciary Law § 475, the petitioner appeals from an order of the Supreme Court, Queens County (Strauss, J.), dated February 8, 2011, which, in effect, granted its petition only to the extent of directing that it recover an attorney's fee for its work in an action entitled *DeOliveira v State of New York* on a quantum meruit basis.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly concluded that the petitioner law firm does not have a charging lien entitling it to a percentage of the contingent attorney's fee recovered by a successor law firm through settlement of a second action commenced by that firm. The second action was commenced against a different defendant who was independently liable for the personal injuries sustained by the plaintiff, and the petitioner did not demonstrate that its efforts in commencing the first action contributed to the commencement or settlement of the second action (*see Rothfeder v City of New York*, 48 AD3d 234, 235; *Chadbourne & Parke, LLP v AB Recur Finans*, 18 AD3d 222, 223;

April 24, 2012

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cf. Matter of Cohen v Grainger, Tesoriero & Bell, 81 NY2d 655, 657-658). Under these circumstances, the petitioner is entitled to recover an attorney's fee for its work on a quantum meruit basis only in the first action it commenced (*see Rothfeder v City of New York*, 48 AD3d at 235).

SKELOS, J.P., DILLON, ENG and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court