

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

D34929
G/kmb

_____AD3d_____

Submitted - April 10, 2012

DANIEL D. ANGIOLILLO, J.P.
THOMAS A. DICKERSON
L. PRISCILLA HALL
JEFFREY A. COHEN, JJ.

2011-03901

DECISION & ORDER

FIA Card Services, N.A., respondent, v Norman
Rubinstein, appellant.

(Index No. 25054/09)

Norman Rubinstein, Tarrytown, N.Y., appellant pro se.

In an action to recover on a revolving credit agreement, the defendant appeals from a judgment of the Supreme Court, Westchester County (Giacomo, J.), entered June 1, 2011, which is in favor of the plaintiff and against him in the principal sum of \$30,679.31.

ORDERED that on the Court's own motion, the notice of appeal from an order of the same court dated March 9, 2011, is deemed a premature notice of appeal from the judgment (*see* CPLR 5520[c]); and it is further,

ORDERED that the judgment is affirmed, without costs or disbursements.

Contrary to the defendant's contention, the Supreme Court properly denied his cross motion to dismiss the complaint for failure to comply with a prior order of the same court, dated July 9, 2010, directing the dismissal of the complaint unless the plaintiff served and filed a note of issue and certificate of readiness within 90 days. The defendant's own submissions established that the plaintiff served and filed a note of issue and certificate of readiness within 90 days of the order dated July 9, 2010. Contrary to the defendant's contention, the note of issue and certificate of readiness were in the proper form (*see* 22 NYCRR 202.21).

The defendant's remaining contentions are without merit.

May 15, 2012

FIA CARD SERVICES, N.A. v RUBINSTEIN

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ANGIOLILLO, J.P., DICKERSON, HALL and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court