

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

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Submitted - April 20, 2012

WILLIAM F. MASTRO, A.P.J.
ANITA R. FLORIO
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2011-04249

DECISION & ORDER

Fahmi Aranki, etc., et al., appellants, v Goldman &
Associates, LLP, et al., respondents.

(Index No. 3705/05)

The Law Office of Steven A. Morelli, P.C., Garden City, N.Y., for appellants.

L'Abbate, Balkan, Colavita & Contini, LLP, Garden City, N.Y. (Scott E. Kossove
and Daniel M. Maunz of counsel), for respondents.

In an action, inter alia, to recover damages for legal malpractice and breach of
fiduciary duty, the plaintiffs appeal from an order of the Supreme Court, Nassau County (Sher, J.),
dated March 22, 2010, which granted the defendants' motion for summary judgment dismissing the
causes of action to recover damages for legal malpractice and breach of fiduciary duty.

ORDERED that the order is affirmed, with costs.

“Absent fraud, collusion, malicious acts, or other special circumstances, an attorney
is not liable to third parties not in privity or near-privity for harm caused by professional negligence”
(*Fredriksen v Fredriksen*, 30 AD3d 370, 372; *see AG Capital Funding Partners, L.P. v State St.
Bank & Trust Co.*, 5 NY3d 582, 595). Here, the defendants established that they did not collude with
the majority members of Millennium Alliance Group, LLC (hereinafter MAG), inter alia, to freeze
the plaintiffs out of MAG's management and profit sharing and force them to surrender, at a reduced
price, their minority membership interest in MAG. Thus, the defendants established their
entitlement to judgment as a matter of law dismissing the cause of action alleging legal malpractice.
In opposition, the plaintiffs failed to raise a triable issue of fact.

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The defendants also established their entitlement to judgment as a matter of law dismissing the cause of action alleging breach of fiduciary duty by showing that they did not knowingly induce the majority members of MAG to breach their fiduciary duty to the plaintiffs (*see Kaufman v Cohen*, 307 AD2d 113, 125). In opposition, the plaintiffs failed to raise a triable issue of fact.

Accordingly, the Supreme Court properly granted the defendants' motion for summary judgment dismissing the causes of action to recover damages for legal malpractice and breach of fiduciary duty.

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

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court