

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

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Argued - September 18, 2012

REINALDO E. RIVERA, J.P.  
CHERYL E. CHAMBERS  
L. PRISCILLA HALL  
SHERI S. ROMAN, JJ.

2011-08905  
2011-09278

DECISION & ORDER

Michael A. Mauro, etc., appellant, v Atlas Park, LLC,  
defendant, WMAP, LLC, respondent.

(Index No. 28494/10)

Michael A. Mauro, Glendale, N.Y., appellant pro se.

Meyer, Suozzi, English & Klein, P.C., Garden City, N.Y. (Kieran X. Bastible of  
counsel), for respondent.

In an action, inter alia, to recover rent payments made pursuant to a lease, the plaintiff appeals from (1) an order of the Supreme Court, Queens County (Hart, J.), entered July 12, 2011, which granted the motion of WMAP, LLC, pursuant to CPLR 1012 and 1013 for leave to intervene in the action as a defendant, and (2) an order of the same court entered August 16, 2011, which denied the plaintiff's motion for leave to enter a default judgment on the third cause of action insofar as asserted against the defendant Atlas Park, LLC.

ORDERED that the orders are affirmed, with one bill of costs payable by the plaintiff to WMAP, LLC.

Contrary to the plaintiff's contention, the Supreme Court did not improvidently exercise its discretion in granting the timely motion of WMAP, LLC (hereinafter WMAP), pursuant to CPLR 1012 and 1013 for leave to intervene in the action as a defendant. WMAP, which purchased the subject property, leased by the plaintiff, at a foreclosure sale after the instant action was commenced, has a real and substantial interest in the outcome of the proceedings (*see* CLPR 1013; *Berkoski v Board of Trustees of Inc. Vil. of Southampton*, 67 AD3d 840, 843).

October 17, 2012

MAURO v ATLAS PARK, LLC

Page 1.

The Supreme Court also properly denied the plaintiff's motion for leave to enter a default judgment on the third cause of action insofar as asserted against the defendant Atlas Park, LLC, as the plaintiff failed to establish that the third cause of action was viable (*see McGee v Dunn*, 75 AD3d 624).

RIVERA, J.P., CHAMBERS, HALL and ROMAN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court