

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

D55294
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_____AD3d_____

Argued - December 12, 2017

RUTH C. BALKIN, J.P.
JOHN M. LEVENTHAL
SYLVIA O. HINDS-RADIX
JOSEPH J. MALTESE, JJ.

2016-07499

DECISION & ORDER

Mary M. Lamberti, appellant, v Plaza Equities, LLC,
defendants, Peter Kamran, respondent.

(Index No. 5244/13)

Michael T. Lamberti, New York, NY, for appellant.

Lester & Associates, P.C., Garden City, NY (Robert A. Drummond of counsel), for
respondent.

In an action, inter alia, to recover damages for fraud, the plaintiff appeals from an amended order of the Supreme Court, Nassau County (Angela G. Iannacci, J.), entered June 10, 2016. The amended order granted the motion of the defendant Peter Kamran for leave to amend his answer and for summary judgment dismissing the amended complaint insofar as asserted against him.

ORDERED that the amended order is affirmed, with costs.

The background facts as to this action and a related mortgage foreclosure action are set forth in this Court's decision and order on a companion appeal (*see Lamberti v Plaza Equities, LLC*, _____ AD3d _____ [Appellate Division Docket No. 2015-06766; decided herewith]). In an amended order entered June 10, 2016, the Supreme Court granted the motion of the defendant Peter Kamran for leave to amend his answer and for summary judgment dismissing the amended complaint insofar as asserted against him. The plaintiff appeals.

Contrary to the plaintiff's contention, the Supreme Court providently exercised its discretion in granting that branch of Kamran's motion which was for leave to amend his answer to

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assert the affirmative defense of collateral estoppel (*see Lamberti v Plaza Equities, LLC*, _____ AD3d _____ [Appellate Division Docket No. 2016-00257; decided herewith]).

We agree with the Supreme Court that Kamran was entitled to summary judgment dismissing the amended complaint insofar as asserted against him based on the doctrine of collateral estoppel (*see id.*).

In light of our determination, we need not reach the plaintiff's remaining contention.

BALKIN, J.P., LEVENTHAL, HINDS-RADIX and MALTESE, 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