

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

D56317
G/hu

_____AD3d_____

Argued - May 1, 2018

JOHN M. LEVENTHAL, J.P.
SANDRA L. SGROI
SYLVIA O. HINDS-RADIX
COLLEEN D. DUFFY, JJ.

2015-12397

DECISION & ORDER

Northfield Insurance Company, appellant, v Shmuel
Golob, et al., respondents.

(Index No. 30698/14)

Kenney Shelton Liptak Nowak LLP, Buffalo, NY (Judith Treger Shelton and Jessica L. Foscolo of counsel), for appellant.

Richard A. Danzig, White Plains, NY (Donald S. Campbell of counsel), for respondents.

In a declaratory judgment action, the plaintiff appeals from a corrected order of the Supreme Court, Rockland County (Victor J. Alfieri, Jr., J.), dated November 30, 2015. The order, insofar as appealed from, granted that branch of the defendants' motion which was to compel the plaintiff to comply with certain discovery demands and denied that branch of the plaintiff's cross motion which was for a protective order as to the information sought in the discovery demands.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

The plaintiff commenced this action seeking a judgment declaring that it was not obligated to defend or indemnify the defendants in an underlying action entitled *Christensen v Golob*, pending in the Supreme Court, Suffolk County, under index number 62302/13.

During the course of discovery, the defendants moved, inter alia, to compel the plaintiff to provide supplemental responses to interrogatories and respond to document demands. The plaintiff cross-moved, inter alia, for a protective order. In a corrected order dated November 30,

August 15, 2018

Page 1.

2015, the Supreme Court, inter alia, granted the defendants' motion to compel and denied that branch of the plaintiff's cross motion which was for a protective order. The plaintiff filed a notice of appeal. Thereafter, the plaintiff moved for summary judgment on the complaint, and that motion was granted in an order dated July 7, 2017.

In light of our determination of the companion appeal (*see Northfield Ins. Co. v Golob*, _____ AD3d _____ [Appellate Division Docket No. 2017-08110; decided herewith]), affirming the order dated July 7, 2017, upon, inter alia, rejecting the defendants' argument that summary judgment was premature in light of the outstanding discovery at issue on this appeal, this appeal has been rendered academic.

LEVENTHAL, J.P., SGROI, HINDS-RADIX and DUFFY, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court