

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

M244778
E/afa

WILLIAM F. MASTRO, J.P.
SANDRA L. SGROI
JEFFREY A. COHEN
JOSEPH J. MALTESE, JJ.

2015-03529, 2015-04706

DECISION & ORDER ON MOTION

Jodi Greene, et al., appellants,
v Nahid Rachlin, et al., respondents.

(Index No. 62465/14)

Appeals by Jodi Greene and Jeffrey Greene from two orders of the Supreme Court, Suffolk County, dated February 4, 2015, and April 24, 2015, respectively, which were determined by decision and order of this Court dated October 18, 2017. By order to show cause contained in the decision and order dated October 18, 2017, the parties to the appeals and/or their counsel were directed to show cause why an order should or should not be made and entered imposing sanctions and/or costs, if any, including appellate attorney's fees, against the appellants and/or their counsel pursuant to 22 NYCRR 130-1.1(c) as this Court might deem appropriate. Motion by the appellants for leave to reargue the appeals, or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court. Cross motion by the respondents Nahid Rachlin and Howard Rachlin pursuant to 22 NYCRR 130-1.1(a) to impose a sanction on the appellants and/or costs and counsel fees incurred in responding to the appellants' motion.

Now, upon the order to show cause and the papers filed in response thereto, and upon the papers filed in support of the motion and the cross motion, and the papers filed in opposition thereto, it is

ORDERED that the motion to impose sanctions and/or costs is granted, and within 20 days after service upon them of a copy of this decision and order on motion, the appellants are directed to deposit the sum of \$500 with the Clerk of this Court for transmittal to the Commissioner of Taxation and Finance (*see* 22 NYCRR 130-1.1[b]; 130-1.3), and pay reasonable appellate attorney's fees to the respondents Nahid Rachlin and Howard Rachlin in the sum of \$5,000, and reasonable appellate attorney's fees to the respondent Douglas Elliman Real Estate, Inc., in the sum of \$10,000 (*see* 22 NYCRR 130-1.1[a]); and it is further,

ORDERED that the appellants' motion is denied, with \$100 costs; and it is further,

ORDERED that the cross motion is granted, and within 20 days after service upon them of a copy of this decision and order on motion, the appellants are directed to deposit the sum of \$100 with the Clerk of this Court for transmittal to the Commissioner of Taxation and Finance (*see* 22 NYCRR 130-1.1[b]; 130-1.3), and pay reasonable appellate attorney's fees to the respondents Nahid Rachlin and Howard Rachlin in the sum of \$1,250, incurred in responding to the appellants' motion (*see* 22 NYCRR 130-1.1[a]); and it is further,

ORDERED that the Clerk of the Supreme Court, Suffolk County, shall enter judgment accordingly (*see* 22 NYCRR 130-1.2); and it is further,

ORDERED that the Clerk of this Court, or her designee, shall serve copies of this decision and order on motion upon the appellants, the respondents Nahid Rachlin and Howard Rachlin, and the respondent Douglas Elliman Real Estate, Inc., by regular mail; and it is further,

ORDERED that within 10 days after payment of attorney's fees to the respondents Nahid Rachlin and Howard Rachlin, and the respondent Douglas Elliman Real Estate, Inc., the appellants shall file proof of such payment with the Clerk of this Court.

By decision and order dated October 18, 2017, this Court affirmed an order of the Supreme Court, Suffolk County, dated February 4, 2015, which granted that branch of the motion of the respondent Douglas Elliman Real Estate, Inc., which was for summary judgment dismissing the amended complaint insofar as asserted against it and searched the record and awarded summary judgment dismissing the amended complaint insofar as asserted against the respondents Nahid Rachlin, Howard Rachlin, Maura Nicolosi, and Babak Nassirian, and affirmed an order of the same court dated April 24, 2015, which, after a hearing, granted that branch of the motion of the respondent Douglas Elliman Real Estate, Inc., which was pursuant to 22 NYCRR 130-1.1(a) for an award of attorney's fees against the appellants. This Court stated that "since the [appellants] are advancing the same arguments on appeal as they did in the Supreme Court, these appeals may be frivolous within the meaning of 22 NYCRR 130-1.1." Based upon the papers submitted in response to the order to show cause, the imposition of sanctions and/or costs against the appellants is warranted pursuant to 22 NYCRR 130-1.1(c) in the amounts indicated. Moreover, by advancing those same arguments in support of their motion, *inter alia*, for leave to reargue, the imposition of additional sanctions and/or costs against the appellants pursuant to 22 NYCRR 130-1.1(c) is warranted in the amounts indicated.

MASTRO, J.P., SGROI, COHEN and MALTESE, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court