

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

M246757  
E/sl

RUTH C. BALKIN, J.P.  
JOHN M. LEVENTHAL  
SANDRA L. SGROI  
VALERIE BRATHWAITE NELSON, JJ.

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2017-06175

DECISION & ORDER ON MOTION

Ari Yemini, et al., respondents,  
v Oded Goldberg, et al., appellants,  
et al., defendant.

(Index No. 12402/05)

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Motion by Ruskin, Moscou, Faltischek, P.C., for leave to withdraw as counsel for the appellants on an appeal from a decision and order (one paper) of the Supreme Court, Nassau County, dated January 11, 2017.


Upon the papers filed in support of the motion and no papers having been filed in opposition or in relation thereto, it is

ORDERED that on the Court's own motion, the appeal from so much of the decision and order dated January 11, 2017, as denied the appellants' oral motion to conform pleadings to the proof is dismissed, without costs or disbursements, on the ground that no appeal lies as of right from a portion of an order that is not the result of a motion made on notice, and leave to appeal has not been granted (*see* CPLR 5701), and no appeal lies from the remaining portion of the decision and order dated January 11, 2017, on the ground that no appeal lies from a decision (*see Schicchi v J.A. Green Constr. Co.*, 100 AD2d 509); and it is further,

ORDERED that the motion is denied as academic.

BALKIN, J.P., LEVENTHAL, SGROI and BRATHWAITE NELSON, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court

March 1, 2018

YEMINI v GOLDBERG