

<b>Harazi v CCW Realty LLC</b>
2007 NY Slip Op 31183(U)
May 4, 2007
Supreme Court, New York County
Docket Number: 0603844/2006
Judge: Rolando T. Acosta
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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

Index Number : 603844/2006

PART 61

HARAZI, ARNON

vs.

CCW REALTY

SEQUENCE NUMBER : 001

SUMMARY JUDGEMENT

INDEX NO. \_\_\_\_\_

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. \_\_\_\_\_

MOTION CAL. NO. \_\_\_\_\_

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

see attached

Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this motion

MOTION IS DECIDED IN ACCORDANCE WITH THE ATTACHED MEMORANDUM DECISION.

FILED

MAY 14 2007

NEW YORK COUNTY CLERK'S OFFICE

SO ORDERED

*[Signature]*

ROLANDO T. ACOSTA, J.S.C.

Dated: 5/4/07

Check one:  FINAL DISPOSITION

NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST

REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK: PART 61

Arnon Harazi,

Plaintiff,

– against –

CCW Realty LLC, Lance E. Steinberg, 92 Fulton  
 Street LLC, Abraham Goldberger, Faigy Goldberger,  
 Lazar Kleinberger, and Moshe Silberstein,

**FILED**  
 MAY 14 2007  
 NEW YORK  
 COUNTY CLERK'S OFFICE

**DECISION/ORDER**

Index No. 603844/06

Seq. No. 1

Present:

**Rolando T. Acosta**  
 Supreme Court Justice

The following documents were considered in reviewing defendants CCW Realty LLC (“CCW”)’s and Lance E. Steinberg’s motion for an order granting summary judgment pursuant to CPLR 3212 dismissing the complaint against them:

<b>Papers</b>	<b>Numbered</b>
<b>Notice of Motion, Affidavits &amp; Memorandum of Law</b>	<b>1-2 (Exhibits A-G)</b>
<b>Affirmation in Opposition</b>	<b>3 (Exhibits A-I)</b>
<b>Reply Affidavit</b>	<b>4</b>

According to plaintiff, he was hired as a consultant by defendants Abraham Goldberg and Lazar Kleinberger (the “Gold Group”) to help them develop their property located at 130 William Street in New York County. Plaintiff learned that an adjacent property located at 92 Fulton Street (the subject premises) was on the market and approached the Gold Group about purchasing it. Getting the go ahead, plaintiff searched the New York City Department of Buildings (“DOB”) and learned that defendant Steinberg was listed as “owner” as President of Canal Holdings LLC and as Secretary of CCW Realty Inc.

Plaintiff met with Steinberg, whom plaintiff asserts held himself out as a principal, about purchasing the premises. According to plaintiff, Steinberg told him that if he brought him a buyer, he would pay plaintiff a 4% broker fee (the asking price was 11 million), and plaintiff agreed. Steinberg, according to plaintiff, never told him that he was a broker with respect to the sale of the premises.

After speaking with Lazar, plaintiff was told to make 10.5 million dollar offer. Steinberg rejected the offer and Lazar agreed to the asking price of 11 million dollars. At a meeting with Steinberg a few days later plaintiff was told by Steinberg that they had a deal at 11 million, that a contract would go out the next day, and that he would be recognized as the broker pursuant to their agreement.

According to plaintiff, he was told that the deal fell through, but later learned that Steinberg and the Gold Group actually went through the sale and that Raber Enterprises ( a company allegedly owned by Steinberg) was listed as the sole broker. When plaintiff confronted Steinberg, Steinberg allegedly offered him \$150,000 rather than the full 4% (\$440,000).

Steinberg asserts that he works for Raber, who managed the premises and brokered the sale. He is not an owner or principal of CCW, Raber or the premises. According to Steinberg and CCW, there was never any privity of contract between plaintiff and them. Therefore, any claims that plaintiff may have are with the buyers, 92 Fulton Street LLC. Accordingly, Steinberg and CCW move for summary judgment dismissing the complaint.

Viewing the facts in the light most favorable to the non moving party, Fundamental Portfolio Advisors v. Tocqueville Asset Management, 7 N.Y.3d 96, 106 (2006), defendants CCW and Steinberg have failed to establish their prima facie entitlement to summary judgment. DOB records indicate that Steinberg held himself out as the owner of the premises and as Secretary of CCW. Although DOB records may be incorrect, this fact tends to support plaintiff's assertions that Steinberg held himself out as the owner. As an owner of the premises he certainly would have been in a position to hire plaintiff as a broker and offer him a 4% commission. In any event, there are simply too many issues of fact at this juncture to grant summary judgment, especially since very little discovery has taken place. CPLR 3212(f). Accordingly, it is hereby

ORDERED that defendants CCW Realty's and Lance E. Steinberg's motion is denied; and it is further

ORDERED that that portion of the motion which sought a Preliminary Conference in the event that summary judgment was not granted is denied as moot inasmuch as a Preliminary Conference was held on February 15, 2007; and it is further

ORDERED that the Compliance Conference currently scheduled for July 12, 2007 is advanced to May 24, 2007 at 10:00 a.m.

This constitutes the Decision and Order of the Court.

Dated: May 4, 2007

ENTER

**SO ORDERED**

*Rolando Acosta*

Rolando T. Acosta, J.S.C.  
**ROLANDO T. ACOSTA**  
J.S.C.

**FILED**  
MAY 14 2007  
NEW YORK  
COUNTY CLERK'S OFFICE