

<b>Mich II Holdings LLC v Schron</b>
2011 NY Slip Op 33613(U)
September 9, 2011
Supreme Court, New York County
Docket Number: 600736/2010
Judge: O. Peter Sherwood
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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: O. PETER SHERWOOD Justice

PART 49

MICH II HOLDINGS LLC et al.,

Plaintiffs,

-against-

RUBIN SCHRON et al.,

Defendants.

INDEX NO. 600736/2010

MOTION DATE

MOTION SEQ. NO. 005

MOTION CAL. NO.

The following papers, numbered 1 to were read on this motion for reargument of the court's decision and order

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

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

Table with 1 column: PAPERS NUMBERED

Cross-Motion: Yes No

Upon the foregoing papers, defendant's motion for leave to reargue the Decision and Order of Justice Yates dated January 20, 2011 ("D&O") is granted and upon reargument, that Decision and Order is reaffirmed. Absent proof that the court overlooked or misapprehended matters of fact or law, the prior decision should not be disturbed. It appears that Justice Yates did not overlook the phrase "other good and valuable consideration" set forth in the Option Agreement (see Nov. 23, 2010 Transcript at pp 33, 41; see also D&O, pp 5,7). Similarly, Justice Yates did not misapply the parol evidence rule. In any event, all of the arguments defendants have made on this motion were advanced earlier. The attempt to relitigate them in this court must be rejected (see Foley v Roche, 68 AD2d 558, 567 [1st Dept 1979]).

It is,

ORDERED that the motion for leave to reargue motion sequence number is granted and upon reargument the decision and order dated January 20, 2011, is REAFFIRMED.

Dated: September 9, 2011

O. P. Sherwood signature
O. PETER SHERWOOD, J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

SUBMIT ORDER/ JUDG. SETTLE ORDER/ JUDG.