

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

D23164
G/hu

_____AD3d_____

Argued - March 10, 2009

ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
HOWARD MILLER
RUTH C. BALKIN, JJ.

2006-03856

DECISION & ORDER

Roslyn Schiffer, plaintiff-respondent, v Sunrise Removal, Inc., et al., defendants-respondents, Keyspan Home Energy Services, LLC, et al., appellants, et al., defendant.

(Index No. 44149/03)

Cullen and Dykman LLP, Brooklyn, N.Y. (Margaret Mazlin of counsel), for appellants.

Pazer & Epstein, P.C., New York, N.Y. (Thomas Torto and Jason Levine of counsel), for plaintiff-respondent.

Blane Magee, Rockville Centre, N.Y., for defendants-respondents.

In an action to recover damages for personal injuries, the defendants Keyspan Home Energy Services, LLC, and Keyspan Plumbing Solutions, Inc., appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Schneier, J.), dated March 9, 2006, as denied their motion for summary judgment dismissing the complaint and all cross claims insofar as asserted against them, or in the alternative, for summary judgment on their cross claims against the defendants Sunrise Removal, Inc., and Geoffrey D. McCallum.

ORDERED that appeal is dismissed, without costs or disbursements.

The appeal from the order must be dismissed because the right of direct appeal therefrom terminated with the entry of judgment in the action (*see Matter of Aho*, 39 NY2d 241,

May 12, 2009

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248). The issues raised on the appeal from the order are brought up for review and have been considered on the appeal from the judgment (*see* CPLR 5501[a][1]; *Schiffer v Sunrise Removal, Inc.*, _____AD3d_____ [Appellate Division Docket No. 2007-09169, decided herewith]).

SPOLZINO, J.P., FISHER, MILLER and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court