

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

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E/cb

ROBERT A. SPOLZINO, J.P.
ANITA R. FLORIO
WILLIAM E. McCARTHY
THOMAS A. DICKERSON, JJ.

2008-00283

DECISION & ORDER ON MOTION

37 Park Drive South, Inc., respondent-appellant,
v James Duffy, et al., appellants-respondents.

(Index No. 04-16967)

Motion by the respondent-appellant, inter alia, to strike stated portions of the appellants-respondents' reply brief on an appeal and cross appeal from a judgment of the Supreme Court, Westchester County, dated January 2, 2008, on the ground that they refer to matter dehors the record or improperly raise arguments for the first time in reply.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is held in abeyance and referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

SPOLZINO, J.P., FLORIO, McCARTHY and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 24, 2008

37 PARK DRIVE SOUTH, INC. v DUFFY