

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

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E/cb

MARK C. DILLON, J.P.  
ANITA R. FLORIO  
RUTH C. BALKIN  
LEONARD B. AUSTIN, JJ.

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2008-01057

DECISION & ORDER ON MOTION

Gihon, LLC, plaintiff-respondent,  
v 501 Second Street, LLC, et al., appellants;  
Norma Vigo, intervenor-respondent.

(Index No. 13933/04)

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Motion by the plaintiff-respondent on an appeal from an order of the Supreme Court, Kings County, dated December 28, 2007, to strike the appellants' appendix as inadequate and on the ground that it contains matter dehors the record, to strike the appellants' brief on the ground that it refers to matter dehors the record, pursuant to 22 NYCRR 130-1.1(a) to impose a sanction upon the appellants and for an award of costs and an attorney's fee, and to enlarge the time to serve and file a brief. Cross motion by the appellants pursuant to 22 NYCRR 130-1.1(a) to impose a sanction upon the plaintiff-respondent.


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

ORDERED that the motion is granted to the extent that the appellants' appendix and brief are stricken, and on or before June 5, 2009, the appellants shall serve and file a replacement appendix and brief that complies with the rules of the court (*see* 22 NYCRR 670.10.2[c]) and does not contain or refer to matter dehors the record, and the motion is otherwise denied; and it is further,

ORDERED that the cross motion is denied.

DILLON, J.P., FLORIO, BALKIN and AUSTIN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

May 1, 2009

GIHON, LLC v 501 SECOND STREET, LLC