

1471 Second Corp v Nat of NY Corp.
2014 NY Slip Op 09039
Decided on December 30, 2014
Appellate Division, First Department
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Decided on December 30, 2014

Sweeny, J.P., Andrias, Saxe, DeGrasse, Gische, JJ.

13844 652594/13

[*1] 1471 Second Corp., Plaintiff-Respondent,

v

Nat of NY Corp., et al., Defendants-Appellants.

Anthony A. Caronna, Brooklyn, for appellants.

Glenn Backer, New York, for respondent.

Appeal from order, Supreme Court, New York County (O. Peter Sherwood, J.), entered on or about November 1, 2013, which denied defendants' letter request to submit a reply brief in further support of their cross motion to dismiss or for summary judgment, unanimously dismissed, without costs, as taken from a nonappealable paper.

The order appealed from did not decide a motion made upon notice and is therefore not appealable as of right (CPLR5701[a][2]); [Serradilla v Lords Corp.](#), 12 AD3d 279, 280 [1st Dept 2004]). We decline to exercise our discretion to deem the notice of appeal a motion for

leave to appeal (*see id.*).

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: DECEMBER 30, 2014

CLERK

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