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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 121 SSM 10
Arts4All, Ltd.,
 Appellant,
et al.,
 Plaintiff,
 v.
Judith L. Hancock,
 Respondent.

Judith L. Hancock,
 Third-Party Respondent,
 v.
Daniel Y.C. Ng, et al.,
 Third-Party Defendants.

Submitted by Zachary R. Greenhill, for appellant.
Submitted by David G. Trachtenberg, for respondent.

MEMORANDUM:

The order of the Appellate Division, insofar as
appealed from, should be affirmed, with costs, and the certified
question not answered as unnecessary.

The courts below applied the correct legal standards,
properly considered all the facts and circumstances of the case,
and did not abuse their discretion in dismissing plaintiffs'
remaining cause of action pursuant to CPLR 3126 (3) (see Kihl v
Pfeffer, 94 NY2d 118, 123 [1999]).

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On review of submissions pursuant to section 500.11 of the Rules, order, insofar as appealed from, affirmed, with costs, and certified question not answered as unnecessary, in a memorandum. Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur. Chief Judge Lippman took no part.

Decided May 12, 2009