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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 139 SSM 14  
Parker Realty Group, Inc.,  
Appellant,  
v.  
A. Michelle Petigny, &c.,  
Respondent,  
970 Management LLC, et al.,  
Defendants.

Submitted by J. Kip Lenoir, for appellant.  
Submitted by Howard L. Sherman, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed with costs. Recovery under the theory of quantum meruit is not appropriate where, as here, an express contract governed the subject matter involved (Miller v Schloss, 218 NY 400, 406-407

[1916]; see also Julien J. Studley, Inc. v New York News, 70 NY2d 628, 629 [1987]). Additionally, plaintiff failed to establish that the parties modified their exclusive brokerage agreement. In the absence of a valid governing exclusive brokerage agreement, plaintiff was not entitled to a commission on the sale to the ultimate buyer, as it was not the procuring cause of the sale (see Greene v Hellman, 51 NY2d 197, 206 [1980]).

\* \* \* \* \*

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided May 6, 2010