

SUPREME COURT OF THE STATE OF NEW YORK - NASSAU COUNTY

**PRESENT: HON. TIMOTHY S. DRISCOLL,
Justice.**

CAPITAL ONE AUTO FINANCE, INC.,

Plaintiff,

-against-

TRIAL/IAS PART 25

Motion Seq. No 2.:

Submission Date: 5/8/09

Index No.: 007648-06

**FRANKLIN SQUARE FORD, INC., FIVE TOWNS
SUZUKI, INC. d/b/a FRANKLIN SQUARE SUZUKI,
ATLANTIS AUTOMALL OF BELLMORE, INC.,
AMIR J. YEDID a/k/a "P.J." YEDID, EREZ E. YEDID
a/k/a "JERRY" YEDID, JOEL HERSHKOWITZ,
MICHAEL LIPARI and MUJO I. ADOVIC a/k/a
"MICHAEL" ADOVIC,**

DECISION AND ORDER

Defendants.

The following papers have been read on this motion:

Notice of Motion and Affirmation in Support.....	X
Plaintiff's Memorandum of Law.....	X
Plaintiff's Exhibits - Volume I.....	X
Plaintiff's Exhibits - Volume II.....	X
Affirmation in Opposition and Exhibits.....	X
Affidavit in Opposition and Exhibits (Adovic).....	X
Affidavit in Opposition and Exhibits (Lipari).....	X
Reply Affirmation in Support and Exhibits.....	X

Plaintiff Capital One Auto Finance, Inc. ("Capital One" or "Plaintiff") has moved for an Order 1) striking the Answers of all Defendants for their failure to produce documents; and 2) awarding Plaintiff its costs and fees, including counsel fees, incurred in filing this motion. Defendants oppose Plaintiff's motion.

This Court took responsibility for this motion on May 8, 2009. In early June of this year, the Court conducted a conference call with counsel, at which time counsel advised the Court that this matter has been resolved as to all Defendants except Michael Lipari ("Lipari") and that counsel for Plaintiff and counsel for Lipari would speak with each other in an effort to resolve the outstanding motion. Counsel for Plaintiff sent a confirmatory letter to the Court dated

June 8, 2009. In that letter, counsel for Plaintiff advised the Court that he and counsel for Lipari would notify the Court of the status of this matter following those discussions. Counsel for the parties have not yet advised the Court of the status of their discussions.

In light of the foregoing, it is hereby

ORDERED, that this motion will be the subject of a Conference in Aid of Disposition on July 30, 2009 at 9:30 a.m. (**Berliner v. Berliner**, 294 A.D.2d 524 (2d Dept. 2002)); and it is further

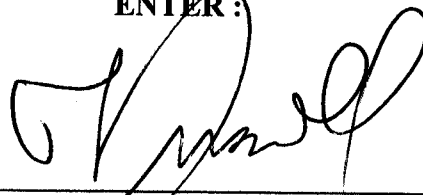
ORDERED, that counsel for Plaintiff and counsel for Defendant Lipari are directed to appear before this Court in IAS Part 25, located at 100 Supreme Court Drive, Third Floor, Mineola, New York, on July 30, 2009 at 9:30 a.m. for a conference in aid of disposition as decided herein.

This constitutes the decision and order of this Court.

Dated: Mineola, New York

July 9, 2009

ENTER:



TIMOTHY S. DRISCOLL, J.S.C.

ENTERED
JUL 13 2009
NASSAU COUNTY
COUNTY CLERK'S OFFICE