

41 A.D.3d 247

Supreme Court, Appellate Division, First Department, New York.

**Myrna ROOT**, et al., Plaintiffs–Appellants,

v.

Andrew K. BROTMANN, Esq., Defendant–Respondent.

June 19, 2007.

## Attorneys and Law Firms

Roth & Roth, LLP, Brooklyn (Marc S. Hepworth of counsel), for appellants.

Andrew K. Brotmann, White Plains, respondent pro se.

## Opinion

Order, Supreme Court, New York County (Richard F. Braun, J.), entered October 25, 2006, which granted defendant's cross motion to change venue from New York to Westchester County and awarded defendant costs, unanimously reversed, on the law, with costs, the motion denied and the award of costs vacated.

Defendant's moving papers, seeking a change of venue pursuant to [CPLR 510\(3\)](#), were deficient in virtually every relevant respect. Among other defects, the moving papers failed to set forth whether the named witnesses would be willing to testify, the nature and materiality of the witnesses' anticipated testimony, and the manner in which they would be inconvenienced by a trial in New York County (see [Gissen v. Boy Scouts of Am.](#), [26 A.D.3d 289](#), [811 N.Y.S.2d 20 \[2006\]](#) ). Although defendant attempted to cure certain of these deficiencies in his reply papers, that attempt was improper and should have been disregarded (see [Job v. Subaru Leasing Corp.](#), [30 A.D.3d 159](#), [817 N.Y.S.2d 9 \[2006\]](#); [Barbot v. Nagabushana](#), [235 A.D.2d 289](#), [652 N.Y.S.2d 292 \[1997\]](#) ), and, in any event, substantively inadequate.

[MARLOW](#), J.P., [WILLIAMS](#), [GONZALEZ](#), [CATTERSON](#), [McGUIRE](#), JJ., concur.

## Parallel Citations

41 A.D.3d 247, 836 N.Y.S.2d 874 (Mem), 2007 N.Y. Slip Op. 05353