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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

-----x DECISION AND ORDER

RAYMOND JORBEL, MIRIAM JORBEL,  
LINDA RIZK, LISA JORBEL, SHARON JORBEL  
and DIANA CLARK,

INDEX NO. 6033/04

MOTION DATE: 3/4/05

Plaintiffs,

-against-

EDWARD KOPKO, HANNEMAN FUNERAL HOME,  
KEITH TAYLOR and ARTHUR WEISENSEEL, M.D.,

Defendants.

-----x

In a decision and order dated February 4, 2005, the Court notified the parties that it would treat motions to dismiss by Hanneman Funeral Home ("Hanneman"), Keith Taylor, and Arthur Weisenseel, M.D., as motions for summary judgment. The following additional materials numbered 19 to 21 were considered by the Court along with the original motion papers:

- Schiner supplemental affirmation and exhibit A 19
- Meltzer supplemental affirmation; Jorbel supplemental affidavit 20, 21

Upon review of the foregoing, the application by Hanneman and Taylor, and the application by Weisenseel, are granted.

As Taylor points out, Hanneman's obligation was to Edward Kopko. Even assuming that Taylor was aware of Kopko's alleged agreement with the plaintiffs, there is no evidence that Taylor procured Kopko's breach of that agreement. See, *Beecher v Feldstein*, 8 AD3d 597 (2d Dept 2004). As for Taylor's alleged

misrepresentation, Taylor's had no duty to tell the plaintiffs that Kopko changed his mind. See, paragraph 23 of the complaint.

Weisenseel specifically denies the allegations of paragraphs 35 and 39 of the complaint, which are the only paragraphs which address him specifically. The plaintiffs offer no evidence to contradict him. Weisenseel has no liability under the third count of the complaint because, whatever Weisenseel's role, the dissection of the remains was authorized by Edward Kopko.

This decision shall constitute the order of this Court.

E N T E R

Dated: New City, New York  
May 8, 2005



WILLIAM K. NELSON  
ACTING SUPREME COURT JUSTICE

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