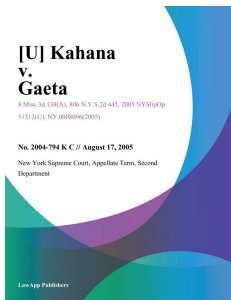


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Inasmuch as tenants, in their papers in support of the motion which resulted in the order of June 7, 2004, submitted no new facts which were unavailable at the time of their original motion, their motion was actually one to reargue, the denial of which is not appealable (see *Meehan v David J. Hodder u0026amp; Son, Inc.*, 13 AD3d 593 [2004]; *Duffy v Wetzler*, 260 AD2d 596, 597 [1999]). However, for the reasons that follow, in the interest of justice, the dismissal of the appeal is without prejudice to an application by tenants in the court below to vacate the stipulation of settlement.

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