

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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Submitted - February 8, 2007

WILLIAM F. MASTRO, J.P.
REINALDO E. RIVERA
MARK C. DILLON
EDWARD D. CARNI, JJ.

2006-04039

DECISION & ORDER

151 East Post Road Corporation, respondent-appellant, v Valerie Eubanks, et al., appellants-respondents.

(Index No. 5902/05)

Russo, Clark & Pedranghelu, LLP, New York, N.Y. (Brandon Clark of counsel), for appellants-respondents.

Cuddy & Feder, LLP, White Plains, N.Y. (Joshua E. Kimerling of counsel), for respondent-appellant.

In an action, in effect, to compel the defendants to satisfy a judgment entered against Jac-Val, LLC, a nonparty corporation, the defendants appeal from so much of an order of the Supreme Court, Westchester County (LaCava, J.), entered March 20, 2006, as denied their cross motion for summary judgment dismissing the complaint, and the plaintiff cross-appeals from so much of the same order as denied its motion for summary judgment.

ORDERED that the order is affirmed insofar as appealed and cross-appealed from, without costs or disbursements.

We agree with the Supreme Court that there are issues of fact as to whether the plaintiff should be permitted to pierce the corporate veil of Jac-Val, LLC, a corporation against which it had obtained a judgment for unpaid rents, in order to hold the individual defendants personally liable for that judgment (*see Berry Packing Corp. v Atlantic Veal Corp.*, 302 AD2d 417; *Board of Mgrs. of Regal Walk Condominium I v Community Mgt. Servs. of Staten Is.*, 226 AD2d 414; *Toroy*

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Realty Corp. v Ronka Realty Corp., 113 AD2d 882). Accordingly, neither party was entitled to summary judgment.

MASTRO, J.P., RIVERA, DILLON and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court