

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

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_____AD3d_____

Argued - February 27, 2007

DAVID S. RITTER, J.P.
GLORIA GOLDSTEIN
ROBERT A. LIFSON
DANIEL D. ANGIOLILLO, JJ.

2006-04666

DECISION & ORDER

Elias Bardis, plaintiff-respondent, v Ricardo Ubiles,
et al., appellants, Alexander Razaghi, et al., defendants-
respondents.

(Index No. 46394/03)

Fiedelman, Garfinkel & Lesman (Fiedelman & McGaw, Jericho, N.Y. [Dawn C. DeSimone] of counsel), for appellants.

James G. Bilello, Westbury, N.Y. (Patricia McDonagh and Umberto Correia of counsel), for defendants-respondents.

In an action to recover damages for personal injuries, the defendants Ricardo Ubiles and Visan Fuel Oil Company, Inc., d/b/a Reliable Fuel, appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Balter, J.), dated January 3, 2006, as denied that branch of their motion which was for summary judgment dismissing the complaint and all cross claims insofar as asserted against them.

ORDERED that the order is affirmed insofar as appealed from, with costs.

There are issues of fact requiring the denial of summary judgment (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853; *Zuckerman v City of New York*, 49 NY2d 557, 562; *Gregson v Terry*, 35 AD3d 358, 361).

RITTER, J.P., GOLDSTEIN, LIFSON and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

March 27, 2007

BARDIS v UBILES