

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

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_____AD3d_____

Submitted - November 8, 2007

GLORIA GOLDSTEIN, J.P.
STEVEN W. FISHER
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2007-01610

DECISION & ORDER

Lawrence M. Pizzo, Sr., respondent, v Gent
Uniform Rental Corp., et al., appellants
(and a third-party action).

(Index No. 16036/05)

John N. Fath, P.C., Patchogue, N.Y. (David C. Weisberg of counsel), for appellants.

Phillips, Weiner & Quinn, Lindenhurst, N.Y. (James A. McDonough of counsel), for
respondent.

In an action to recover damages for breach of contract, the defendants appeal from
so much of an order of the Supreme Court, Suffolk County (Pines, J.), dated January 12, 2007, as
denied that branch of their motion which was for summary judgment dismissing the complaint.

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

In response to the defendants' prima facie showing of entitlement to judgment as a
matter of law based upon the written agreements between the parties, the plaintiff raised triable issues
of fact arising from the allegations in his complaint, and the admissions of the defendant Frank
Urbinati, Jr., at a deposition in a prior action (*see Matisoff v Dobi*, 90 NY2d 127, 134; *Pollnow v*
Poughkeepsie Newspapers, 67 NY2d 778, 780; *EDP Hosp. Computer Sys., Inc. v Bronx-Lebanon*
Hosp. Ctr., 13 AD3d 476, 478; *Bono v Cucinella*, 298 AD2d 483, 484).

GOLDSTEIN, J.P., FISHER, CARNI and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 4, 2007

PIZZO v GENT UNIFORM RENTAL CORP.