

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

D18503  
X/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - February 22, 2008

WILLIAM F. MASTRO, J.P.  
THOMAS A. DICKERSON  
ARIEL E. BELEN  
CHERYL E. CHAMBERS, JJ.

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2006-11894

DECISION & ORDER

Bruce Schwartz, respondent, v Morse Business  
Machines Corporation, et al., appellants.

(Index No. 1823/04)

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Miranda Sokoloff Sambursky Slone Verveniotis, LLP, Elmsford, N.Y. (Richard S. Sklarkin of counsel), for appellants.

Ira E. Berliner, Port Chester, N.Y., for respondent.

In an action, inter alia, to recover damages for breach of an employment contract, the defendants appeal from an order of the Supreme Court, Putnam County (O'Rourke, J.), dated October 20, 2006, which denied their motion, among other things, for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

The defendants failed to establish their entitlement to judgment as a matter of law (*see Zuckerman v City of New York*, 49 NY2d 557). Accordingly, that branch of their motion which was for summary judgment dismissing the complaint was properly denied (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851).

The defendants' remaining contention is without merit.

MASTRO, J.P., DICKERSON, BELEN and CHAMBERS, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

March 25, 2008

SCHWARTZ v MORSE BUSINESS MACHINES CORPORATION