

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

D19069  
G/kmg

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Argued - February 19, 2008

PETER B. SKELOS, J.P.  
ROBERT A. LIFSON  
FRED T. SANTUCCI  
RUTH C. BALKIN, JJ.

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2006-07862

DECISION & ORDER

Phillip Kuslansky, etc., appellant, v  
Kuslansky, Robbins, Stechel and Cunningham,  
LLP, et al., respondents.

(Index No. 18147/05)

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Joseph A. Hanshe PLLC, Sayville, N.Y. (Gerard Hanshe of counsel), for appellant.

Weinberg, Gross & Pergament LLP, Garden City, N.Y. (Marc A. Pergament and  
Marc J. Weingard of counsel), for respondents.

In an action, inter alia, to recover damages for breach of contract, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Nassau County (Warshawsky, J.), dated July 31, 2006 as, upon reargument, in effect, vacated so much of a prior order of the same court dated May 12, 2006, as denied the motion of the defendants Mitchell Robbins, Richard Stechel, and Thomas Cunningham pursuant to CPLR 3211(a)(1) and (7) to dismiss the complaint insofar as asserted against them, and thereupon granted the motion to dismiss.

ORDERED that the order dated July 31, 2006, is reversed insofar as appealed from, on the law, with costs, and upon reargument, so much of the order dated May 12, 2006, as denied the motion of the defendants Mitchell Robbins, Richard Stechel, and Thomas Cunningham pursuant to CPLR 3211(a)(1) and (7) to dismiss the complaint insofar as asserted against them is adhered to.

The plaintiff commenced this action, inter alia, to recover damages for breach of contract based on the alleged failure of the defendants to pay him the value of his interest in the subject partnership as provided for in the parties' partnership agreement upon a partner's withdrawal

April 29, 2008

Page 1.

KUSLANSKY v KUSLANSKY, ROBBINS, STECHEL and CUNNINGHAM, LLP

from the partnership. The defendants Mitchell Robbins, Richard Stechel, and Thomas Cunningham moved pursuant to CPLR 3211(a)(1) and (7) to dismiss the complaint insofar as asserted against them, contending that Partnership Law § 26(b) shielded them from liability with respect to the plaintiff-partner, who had withdrawn from the partnership. The Supreme Court originally denied the motion but, upon reargument, in effect, vacated so much of the prior order as denied the motion, and thereupon granted the motion.

The Court of Appeals recently made clear that the “liability shield” created by Partnership Law § 26(b) for general partners of a registered limited liability partnership only applies to “a partner’s liability to third parties, and, in fact, is part of article 3 of the Partnership Law (‘Relations of Partners to Persons Dealing with the Partnership’), not article 4 (‘Relations of Partners to One Another’)” (*Ederer v Gursky*, 9 NY3d 514, 524). Thus, Partnership Law § 26(b) “does not shield a general partner in a registered limited liability partnership from personal liability for breaches of the partnership’s or partners’ obligations to each other” (*Ederer v Gursky*, 9 NY3d at 516).

SKELOS, J.P., LIFSON, SANTUCCI and BALKIN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court