

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

D19850  
Y/hu

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

Argued - May 28, 2008

STEVEN W. FISHER, J.P.  
ROBERT A. LIFSON  
JOSEPH COVELLO  
WILLIAM E. McCARTHY, JJ.

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2006-11521

DECISION & ORDER

David Safena, appellant, v Guy G. Giuliano, respondent.

(Index No. 4712/03)

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Ronald Cohen, New York, N.Y., for appellant.

David Zaslavsky, PLLC, New York, N.Y., for respondent.

In an action, inter alia, to compel the release of money from an escrow account, the plaintiff appeals from so much of an order of the Supreme Court, Kings County (Bunyan, J.), dated September 15, 2005, as denied his motion for summary judgment on the complaint, with leave to renew after joinder of necessary parties.

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

The Supreme Court, which correctly concluded that certain nonparties were necessary parties to the action (*see* CPLR 1001[a]; *cf. Matter of Lezette v Board of Educ., Hudson City School Dist.*, 35 NY2d 272, 282), properly denied the plaintiff's motion for summary judgment, with leave to renew upon the nonparties' joinder (*see Salomon Bros. Realty Corp. v Alvarez*, 22 AD3d 482).

The plaintiff's remaining contention is beyond the scope of our review (*see* CPLR 5515[1]; *Cardinal Holdings v Chandre Corp.*, 302 AD2d 550, 551).

FISHER, J.P., LIFSON, COVELLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

July 29, 2008

SAFENA v GIULIANO