

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

D28759
Y/prt

_____AD3d_____

Argued - September 16, 2010

MARK C. DILLON, J.P.
ANITA R. FLORIO
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2009-09362

DECISION & ORDER

Cadim Stonehenge 56th Associates, LLC, respondent,
v 57 Dry Clean Inc., etc., et al., appellants.

(Index No. 28137/07)

Robert N. Lerner, Brooklyn, N.Y., for appellants.

Kossoff & Unger, New York, N.Y. (Joseph Goldsmith of counsel), for respondent.

In an action, inter alia, to recover damages for breach of a lease, the defendants appeal from an order of the Supreme Court, Kings County (Vaughan, J.), dated September 23, 2009, which denied their motion to vacate a judgment of the same court dated April 2, 2009, in favor of the plaintiff and against them in the total sum of \$109,294.02, entered upon their default in filing opposition to the plaintiff's motion for summary judgment.

ORDERED that the order is modified, on the facts and as an exercise of discretion, by deleting the provision thereof denying that branch of the defendants' motion which was to vacate so much of the judgment as was in favor of the plaintiff and against the individual defendant, Hong Jian Liu, and substituting therefor a provision granting that branch of the motion; as so modified, the order is affirmed, without costs or disbursements.

The individual defendant, Hong Jian Liu, demonstrated a reasonable excuse for his default and a potentially meritorious defense (*see* CPLR 5015[a][1]; *Martins v Yukhayev*, 63 AD3d 697, 698). Accordingly, that branch of the defendants' motion which was to vacate so much of the judgment as was in favor of the plaintiff and against the individual defendant should be granted.

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The defendants' remaining contentions are without merit.

DILLON, J.P., FLORIO, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive style with a large, prominent initial "M".

Matthew G. Kiernan
Clerk of the Court