

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

D30929
G/kmb

_____AD3d_____

Argued - March 24, 2011

REINALDO E. RIVERA, J.P.
THOMAS A. DICKERSON
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2010-05860

DECISION & ORDER

Pramendra Persaud, et al., respondents, v Vishwa
Sooklall, et al., defendants, UL Electrical Corp.,
appellant.

(Index No. 22652/07)

O'Connor Redd LLP, White Plains, N.Y. (Jeremy D. Platek of counsel), for appellant.

Andrew J. Barovick, P.C., New York, N.Y., for respondents.

In an action to recover damages for personal injuries, etc., the defendant UL Electrical Corp. appeals from so much of an order of the Supreme Court, Queens County (Weinstein, J.), entered April 8, 2010, as denied its motion for summary judgment dismissing the complaint insofar as asserted against it.

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

The defendant UL Electrical Corp. failed to establish its prima facie entitlement to judgment as a matter of law dismissing the complaint insofar as asserted against it. It did not tender "sufficient evidence to demonstrate the absence of any material issues of fact" (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324). Failure to make such a prima facie showing requires a denial of the motion, regardless of the sufficiency of the opposing papers (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853). Accordingly, the Supreme Court properly denied UL Electrical Corp.'s motion for summary judgment dismissing the complaint insofar as asserted against it.

RIVERA, J.P., DICKERSON, LOTT and COHEN, JJ., concur.

ENTER:


Matthew G. Kiernan

Clerk of the Court

April 26, 2011

PERSAUD v SOOKLALL