

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

D33757
O/ct

_____AD3d_____

Submitted - January 4, 2012

MARK C. DILLON, J.P.
RUTH C. BALKIN
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2011-02961

DECISION & ORDER

Nassau Suffolk Lumber & Supply Corp., respondent,
v Electrograph Technologies Corp., formerly known
as Manchester Technologies, Inc., appellant.

(Index No. 1319/10)

Shechtman Halperin Savage, LLP, White Plains, N.Y. (Lynn E. Judell of counsel),
for appellant.

Pinks, Arbeit & Nemeth, Hauppauge, N.Y. (Robert S. Arbeit of counsel), for
respondent.

In an action to recover damages for breach of contract, the defendant appeals from
an order of the Supreme Court, Suffolk County (Whelan, J.), dated February 23, 2011, which denied
its motion to vacate a judgment of the same court dated June 17, 2010, which, upon its default in
appearing or answering the complaint, is in favor of the plaintiff and against it in the principal sum
of \$4,220,385.38.

ORDERED that the order is affirmed, with costs.

The defendant failed to demonstrate that it had a potentially meritorious defense to
the action on the issue of liability for breach of the commercial lease (*see generally Holy Props. v*
Cole Prods., 87 NY2d 130, 133-134; *Riverside Research Inst. v KMG, Inc.*, 68 NY2d 689,
691-692; *Rep A8 LLC v Aventura Tech., Inc.*, 68 AD3d 1087, 1089).

January 31, 2012

Page 1.

NASSAU SUFFOLK LUMBER & SUPPLY CORP. v ELECTROGRAPH TECHNOLOGIES
CORP., formerly known as MANCHESTER TECHNOLOGIES, INC.

Accordingly, the Supreme Court properly denied the defendant's motion to vacate the default judgment.

DILLON, J.P., BALKIN, BELEN and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court