

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

D34022
O/prt

_____AD3d_____

Argued - September 8, 2011

REINALDO E. RIVERA, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
SHERI S. ROMAN, JJ.

2010-00777

DECISION & ORDER

Joseph Gorham, plaintiff-respondent, v Reliable Fence & Supply Co., Inc., defendant third-party defendant-appellant, Premier Storage Solutions of Third Avenue, LLC, defendant-respondent, Racanelli Construction Company, Inc., defendant third-party plaintiff-respondent; et al., third-party defendant.

(Index No. 39253/05)

Gorton & Gorton, LLP, Mineola, N.Y. (Thomas P. Gorton of counsel), for defendant third-party defendant-appellant.

Ross & Hill, Brooklyn, N.Y. (James Ross of counsel), for plaintiff-respondent.

Molod Spitz & DeSantis, P.C., New York, N.Y. (Alice Spitz and Marcy Sonneborn of counsel), for defendant-respondent.

Gallo Vitucci & Klar, LLP, New York, N.Y. (Kimberly R. Ricciardi of counsel), for defendant third-party plaintiff-respondent.

In an action to recover damages for personal injuries, the defendant third-party defendant, Reliable Fence & Supply Co., Inc., appeals from an order of the Supreme Court, Kings County (Ruchelsman, J.), dated November 10, 2009, which denied its motion for summary judgment dismissing the complaint and all cross claims insofar as asserted against it, granted that branch of the cross motion of the defendant Premier Storage Solutions of Third Avenue, LLC, which was for summary judgment dismissing the complaint and all cross claims insofar as asserted against that

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defendant, and granted those branches of the cross motion of the defendant third-party plaintiff, Racanelli Construction Company, Inc., which were for summary judgment dismissing the complaint and all cross claims insofar as asserted against that defendant and for summary judgment on that defendant's third-party cause of action for contractual indemnification insofar as asserted against it.

ORDERED that the appeal from the order is dismissed, without costs or disbursements, as that order was superseded by an order dated June 18, 2010, made upon reargument (*see Gorham v Reliable Fence & Supply Co., Inc.*, _____AD3d_____ [Appellate Division Docket No. 2010-07734, decided herewith]).

RIVERA, J.P., BALKIN, LEVENTHAL and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court