

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**543.6**

**CA 17-01396**

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, TROUTMAN, AND WINSLOW, JJ.

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RANDY J. SCHALL, TRUSTEE OF THE ESTATE IN  
BANKRUPTCY OF PATRICIA A. MORSE,  
PLAINTIFF-RESPONDENT-APPELLANT,

V

MEMORANDUM AND ORDER

DAVID L. VICKERS & SONS AND DAVID L. VICKERS,  
INDIVIDUALLY, DEFENDANTS-APPELLANTS-RESPONDENTS.  
(APPEAL NO. 6.)

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SAUNDERS KAHLER, LLP, UTICA (MERRITT S. LOCKE OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS-RESPONDENTS.

BOSMAN LAW FIRM, LLC, ROME (A.J. BOSMAN OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT-APPELLANT.

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Appeal and cross appeal from a judgment of the Supreme Court,  
Oneida County (Patrick F. MacRae, J.), entered April 20, 2017. The  
judgment awarded money damages to Patricia A. Morse.

It is hereby ORDERED that the judgment so appealed from is  
unanimously vacated and the order entered December 10, 2015 is  
modified on the law by granting that part of the motion of defendants  
David L. Vickers & Sons and David L. Vickers, individually, for  
summary judgment dismissing the negligence cause of action and as  
modified the order is affirmed without costs.

Same memorandum as in *Sestito v David L. Vickers & Sons* ([appeal  
No. 2] – AD3d – [Aug. 22, 2019] [4th Dept 2019]).

Entered: August 22, 2019

Mark W. Bennett  
Clerk of the Court