

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

543.4

CA 17-01394

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

DONALD CARDIFF AND DIANA CARDIFF,
PLAINTIFFS-RESPONDENTS-APPELLANTS,

V

MEMORANDUM AND ORDER

DAVID L. VICKERS & SONS AND DAVID L. VICKERS,
INDIVIDUALLY, DEFENDANTS-APPELLANTS-RESPONDENTS.
(APPEAL NO. 4.)

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

BOSMAN LAW FIRM, LLC, ROME (A.J. BOSMAN OF COUNSEL), FOR
PLAINTIFFS-RESPONDENTS-APPELLANTS.

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

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