

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: March 12, 2026

CV-24-2056

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GIANFAGNA FAMILY  
IRREVOCABLE TRUST et al.,  
Appellants,

v

HOMETOWN OIL, INC.,  
Respondent,  
et al.,  
Defendant.

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MEMORANDUM AND ORDER

Calendar Date: January 13, 2026

Before: Aarons, J.P., Pritzker, Ceresia, Powers and Mackey, JJ.

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*Rupp Pfalzgraf LLC*, Buffalo (*John T. Kolaga* of counsel), for appellants.

*Goldberg Segalla*, Buffalo (*James M. Specyal* of counsel), for respondent.

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Ceresia, J.

Appeal from an order of the Supreme Court (James Walsh, J.), entered December 5, 2024 in Saratoga County, which denied plaintiffs' motion for partial summary judgment.

In March 2022, plaintiffs purchased a residence in the hamlet of North Creek, located in the Town of Johnsburg, Warren County, from defendant Ora Fitzgerald. Prior to the purchase, Fitzgerald had an "auto-fill" contract with defendant Hometown Oil, Inc. for delivery of home heating oil. During the summer of 2022, plaintiffs began converting the heating system in the home from oil to propane and, as part of that process, drained

the oil out of the basement storage tank and opened its valves to release fumes. In September 2022, Hometown delivered over 300 gallons of heating oil to the residence via the fill pipe on the outside of the home. The oil leaked through an open valve in the tank, soaking the concrete floor of the basement and the ground below.

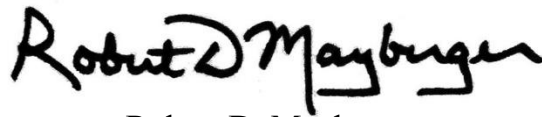
Plaintiffs thereafter commenced the instant action against defendants seeking damages in connection with the oil spill and associated cleanup costs. Defendants joined issue and plaintiffs then moved, as relevant here, for summary judgment against Hometown on their causes of action for indemnification and contribution under the Navigation Law. Hometown opposed, Supreme Court denied the motion, and plaintiffs appeal.

A review of the subject decision and order makes clear that, although Supreme Court did indicate that there "appear[ed]" to be questions of fact "at this juncture," the court ultimately determined that further discovery was warranted and, as a result, denied plaintiffs' summary judgment motion as premature. In so ruling, the court explicitly permitted plaintiffs the opportunity to renew the motion upon completion of discovery. That said, on appeal, plaintiffs have not argued, let alone demonstrated, that the court's ruling constituted an abuse of discretion, nor does the record reflect as much. Accordingly, the court's order denying the motion without prejudice is upheld (*see Morin v Heritage Builders Group, LLC*, 211 AD3d 1138, 1143 [3d Dept 2022]; *Abele Tractor & Equip. Co., Inc. v Schaeffer*, 167 AD3d 1256, 1259 [3d Dept 2018]).

Aarons, J.P., Pritzker, Powers and Mackey, JJ., concur.

ORDERED that the order is affirmed, with costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, stylized 'R' and 'M'.

Robert D. Mayberger  
Clerk of the Court