

Extell 601 W. 137th St. LLC v Vinegar Hill Baking Co. & Rest. LLC
2013 NY Slip Op 08385
Decided on December 17, 2013
Appellate Division, First Department
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This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on December 17, 2013

Friedman, J.P., Acosta, Renwick, Manzanet-Daniels, Gische, JJ.

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[*1] Extell 601 West 137th Street LLC, Plaintiff-Respondent, —

v

Vinegar Hill Baking Company and Restaurant LLC, Defendant, Sven Christian Oehme, etc., Defendant-Appellant.

Law Office of Peter G. Eikenberry, New York (Peter G. Eikenberry of counsel), for appellant.

Rivkin Radler LLP, New York (Evan R. Schieber of counsel), for respondent.

Order, Supreme Court, New York County (Joan M. Kenney, J.), entered November 28, 2012, which granted plaintiff's summary judgment motion as to liability only on its 4th, 5th, 6th, 10th, 11th and 12th causes of action against defendant Sven Christian Oehme a/k/a Sven L. Oehme and directed an assessment of damages on those causes of action, unanimously affirmed, without costs. The motion court properly determined that defendant Oehme did not present any viable affirmative defenses as to the issue of his liability as guarantor for the obligations of the lessee, defendant Vinegar Hill Baking Company and Restaurant LLC. Contrary to Oehme's contentions, he was not relieved of his liability under

the terms of the guaranty clauses. The amount owed will be determined at inquest.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: DECEMBER 17, 2013

CLERK

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