

267 A.D.2d 350

(Cite as: 267 A.D.2d 350, 699 N.Y.S.2d 922)

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Gangi v. Solgar Co., Inc.  
267 A.D.2d 350, 699 N.Y.S.2d 922  
N.Y.A.D.,1999.

267 A.D.2d 350699 N.Y.S.2d 922, 1999 WL  
1220169, 1999 N.Y. Slip Op. 10869

Anthony Gangi, Appellant, et al., Plaintiff,  
v.  
Solgar Co., Inc., Respondent, et al., Defendants.  
Supreme Court, Appellate Division, Second De-  
partment, New York  
(December 20, 1999)

CITE TITLE AS: Gangi v Solgar Co.

In an action, *inter alia*, to set aside personal guaran-  
tees, the plaintiff Anthony Gangi appeals, as lim-  
ited by his brief, from so much of a judgment of the  
Supreme Court, Nassau County (Franco, J.),  
entered September 29, 1998, as, upon an order of  
the same court entered July 22, 1998, which, among  
other things, granted the motion of Solgar Vitamin  
and Herb Company, Inc., s/h/a Solgar Co., Inc., for  
summary judgment dismissing the complaint inso-  
far as asserted against it and on its first and second  
counterclaims, is in favor of that defendant and  
against it on the first and second counterclaims.

Ordered that the judgment is affirmed insofar as ap-  
pealed from, with costs.

On its motion for summary judgment on its first  
and second counterclaims, the defendant Solgar  
Vitamin and Herb Company, Inc., s/h/a Solgar Co.,  
Inc. (hereinafter Solgar), demonstrated its entitle-  
ment to judgment as a matter of law by submitting  
proof of the underlying contract, promissory note,  
guarantees, and the appellant's default (*see*, [CPLR  
3212](#); [Capital Circulation Corp. v Gallop Leasing  
Corp.](#), 248 AD2d 578). It was thus incumbent upon  
the appellant to demonstrate, by admissible evi-  
dence, the existence of a triable issue of fact with re-

spect to a bona fide defense of the counterclaims  
(*see*, [George L. Penny, Inc. v Zaweski](#), 254 AD2d  
255; [Colonial Commercial Corp. v Breskel Assocs.](#),  
238 AD2d 539). The appellant's unsupported con-  
clusory allegations of, *inter alia*, fraud in the in-  
ducement were insufficient to defeat the motion  
(*see*, [Zuckerman v City of New York](#), 49 NY2d  
557; [Capital Circulation Corp. v Gallop Leasing  
Corp.](#), *supra*; [SCP \[Bermuda\] v Bermudatel Ltd.](#),  
224 AD2d 214; [Raven El. Corp. v Finkelstein](#), 223  
AD2d 378).

The appellant's remaining contentions are without  
merit.

Bracken, J. P., Thompson, Friedmann and Smith,  
JJ., concur.

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