

Friedman, J.P., Richter, Feinman, Kapnick, Kahn, JJ.

1882 Mark Ricci, Index 190224/14
Plaintiff-Respondent,

-against-

A.O. Smith Water Products Co., et al.,
Defendants,

Cleaver-Brooks, Inc., sued
herein as Cleaver Brooks Company, Inc.,
Defendant-Appellant.

Barry, McTiernan & Moore LLC, New York (Suzanne M. Halbardier of
counsel), for appellant.

Weitz & Luxenberg, P.C., New York (Alani Golanski of counsel),
for respondent.

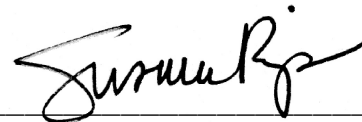
Order, Supreme Court, New York County (Peter H. Moulton,
J.), entered October 19, 2015, which, in this action arising from
plaintiff's alleged exposure to asbestos resulting in his
contracting mesothelioma, denied the motion of defendant
Cleaver-Brooks, Inc. for summary judgment dismissing the
complaint as against it, unanimously affirmed, without costs.

The motion court applied the correct standard on the summary
judgment motion and properly concluded that Cleaver-Brooks failed
to establish entitlement to judgment as a matter of law. The
record demonstrates that in support of its motion, Cleaver-Brooks

merely pointed to perceived gaps in plaintiff's proof, rather than submitting evidence showing why his claims fail (see *Koulermos v A.O. Smith Water Prods.*, 137 AD3d 575 [1st Dept 2016]).

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

ENTERED: OCTOBER 13, 2016

A handwritten signature in black ink, appearing to read "Susan R. [unclear]", written over a horizontal line.

CLERK