

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

1697

CA 08-01100

PRESENT: SCUDDER, P.J., SMITH, CENTRA, AND FAHEY, JJ.

CONCEPCION VIRELLA, III, PLAINTIFF,

V

MEMORANDUM AND ORDER

ALLSTATE HOME CARE OF BUFFALO, INC., ALFONSO
REID, DEFENDANTS-APPELLANTS,
AND NEAL E. DUNNING, DEFENDANT-RESPONDENT.
(APPEAL NO. 2.)

SUGARMAN LAW FIRM, LLP, BUFFALO (KELLY J. PHILIPS OF COUNSEL), FOR
DEFENDANTS-APPELLANTS.

HAGELIN KENT LLC, BUFFALO (VICTOR M. WRIGHT OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Rose H. Sconiers, J.), entered March 25, 2008 in a personal injury action. The order granted the motion of defendant Neal E. Dunning for summary judgment dismissing the complaint and cross claim against him.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by dismissing that part of the motion seeking summary judgment dismissing the complaint against defendant Neal E. Dunning and as modified the order is affirmed without costs.

Same Memorandum as in *Virella v Allstate Home Care of Buffalo, Inc.* ([appeal No. 1.] ___ AD3d ___ [Feb. 6, 2009]).

Entered: February 6, 2009

JoAnn M. Wahl
Clerk of the Court