

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

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CA 13-00880

PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, AND LINDLEY, JJ.

MARCIA ALLEN, PLAINTIFF,

V

MEMORANDUM AND ORDER

WAL-MART STORES, INC., DEFENDANT.
(ACTION NO. 1.)

MARCIA ALLEN, PLAINTIFF-APPELLANT,

V

WAL-MART STORES EAST, LP, DEFENDANT-RESPONDENT.
(ACTION NO. 2.)

(APPEAL NO. 2.)

MELVIN BRESSLER, ROCHESTER, FOR PLAINTIFF-APPELLANT.

BROWN HUTCHINSON LLP, ROCHESTER (R. ANDREW FEINBERG OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Monroe County (Evelyn Frazee, J.), entered July 30, 2012. The order granted the motion of defendant to strike the complaint and dismiss action No. 2 pursuant to CPLR 3126.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Same Memorandum as in *Allen v Wal-Mart Stores, Inc.* ([appeal No. 1], ___ AD3d ___ [Oct. 3, 2014]).

Entered: October 3, 2014

Frances E. Cafarell
Clerk of the Court