

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

**728**

**CA 14-01436**

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, VALENTINO, AND DEJOSEPH, JJ.

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ACQUEST WEHRLE, LLC, PLAINTIFF-RESPONDENT,

V

ORDER

TOWN OF AMHERST, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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E. THOMAS JONES, WILLIAMSVILLE, DEMARIE & SCHOENBORN, P.C., BUFFALO  
(JOSEPH DEMARIE OF COUNSEL), FOR DEFENDANT-APPELLANT.

RUPP BAASE PFALZGRAF CUNNINGHAM LLC, BUFFALO (R. ANTHONY RUPP, III, OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (John A. Michalek, J.), entered November 26, 2013. The order awarded plaintiff attorney's fees.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (see *Hughes v Nussbaumer, Clarke & Velzy*, 140 AD2d 988; *Chase Manhattan Bank, N.A. v Roberts & Roberts*, 63 AD2d 566, 567; see also CPLR 5501 [a] [1]).

Entered: June 19, 2015

Frances E. Cafarell  
Clerk of the Court