

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

1443

CA 10-00945

PRESENT: SMITH, J.P., CENTRA, FAHEY, PERADOTTO, AND PINE, JJ.

DONNA PRINCE LYNCH, INDIVIDUALLY AND AS PARENT
AND NATURAL GUARDIAN OF PHILIP LAWRENCE LYNCH,
AND AS ADMINISTRATRIX OF THE ESTATE OF TIMOTHY
JOHN LYNCH, DECEASED,
PLAINTIFF-RESPONDENT-APPELLANT,

V

ORDER

MIKE WATERS, AS FIRE CONTROL COORDINATOR OF
COUNTY OF ONONDAGA, AND COUNTY OF ONONDAGA,
DEFENDANTS-APPELLANTS-RESPONDENTS.

MIKE WATERS, AS FIRE CONTROL COORDINATOR OF
COUNTY OF ONONDAGA, AND COUNTY OF ONONDAGA,
THIRD-PARTY PLAINTIFFS-APPELLANTS,

V

THE POMPEY HILL FIRE DISTRICT, THE POMPEY HILL
FIRE DEPARTMENT, RICHARD ABBOTT, IN HIS OFFICIAL
CAPACITY AS AN ASSISTANT CHIEF OF THE POMPEY HILL
FIRE DEPARTMENT, MARK KOVALEWSKI, IN HIS OFFICIAL
CAPACITY AS AN ASSISTANT CHIEF OF THE POMPEY HILL
FIRE DEPARTMENT, THE VILLAGE OF MANLIUS, THE
MANLIUS FIRE DEPARTMENT, RAYMOND DILL, IN HIS
OFFICIAL CAPACITY AS DEPUTY CHIEF OF THE MANLIUS
FIRE DEPARTMENT, THIRD-PARTY DEFENDANTS-RESPONDENTS,
AND JOSEPH MESSINA, THIRD-PARTY DEFENDANT.
(APPEAL NO. 1.)

GORDON J. CUFFY, COUNTY ATTORNEY, SYRACUSE (MARY J. FAHEY OF COUNSEL),
FOR DEFENDANTS-APPELLANTS-RESPONDENTS AND THIRD-PARTY PLAINTIFFS-
APPELLANTS.

MICHAELS & SMOLAK, P.C., AUBURN (MICHAEL G. BERSANI OF COUNSEL), FOR
PLAINTIFF-RESPONDENT-APPELLANT.

TADDEO & SHAHAN, LLP, SYRACUSE (STEVEN C. SHAHAN OF COUNSEL), FOR
THIRD-PARTY DEFENDANTS-RESPONDENTS THE POMPEY HILL FIRE DISTRICT, THE
POMPEY HILL FIRE DEPARTMENT, RICHARD ABBOTT, IN HIS OFFICIAL CAPACITY
AS AN ASSISTANT CHIEF OF THE POMPEY HILL FIRE DEPARTMENT, AND MARK
KOVALEWSKI, IN HIS OFFICIAL CAPACITY AS AN ASSISTANT CHIEF OF THE
POMPEY HILL FIRE DEPARTMENT.

MAYNARD, O'CONNOR, SMITH & CATALINOTTO, LLP, ALBANY (ROBERT A. RAUSCH

OF COUNSEL), FOR THIRD-PARTY DEFENDANTS-RESPONDENTS THE VILLAGE OF MANLIUS AND THE MANLIUS FIRE DEPARTMENT.

UNDERBERG & KESSLER LLP, ROCHESTER (DAVID H. FITCH OF COUNSEL), FOR THIRD-PARTY DEFENDANT-RESPONDENT RAYMOND DILL, IN HIS OFFICIAL CAPACITY AS DEPUTY CHIEF OF THE MANLIUS FIRE DEPARTMENT.

Appeal and cross appeal from an order of the Supreme Court, Onondaga County (Donald A. Greenwood, J.), entered July 22, 2009. The order, among other things, granted the motions of third-party defendants the Pompey Hill Fire District, the Pompey Hill Fire Department, Richard Abbott, in his Official Capacity as an Assistant Chief of the Pompey Hill Fire Department, and Mark Kovalewski, in his Official Capacity as an Assistant Chief of the Pompey Hill Fire Department, the Village of Manlius, the Manlius Fire Department, Raymond Dill, in his Official Capacity as Deputy Chief of the Manlius Fire Department, for summary judgment dismissing the third-party complaint against them.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (see *Matter of Eric D.* [appeal No. 1], 162 AD2d 1051).

Entered: December 30, 2010

Patricia L. Morgan
Clerk of the Court