

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

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**CA 10-00448**

PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, LINDLEY, AND MARTOCHE, JJ.

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JASON PHILLIPS, ET AL., PLAINTIFFS,

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ORDER

HENRY B'S INC., ET AL., DEFENDANTS,  
AND JON W. BUCHWALD, INDIVIDUALLY AND  
AS OWNER OF PROPERTY AT 86 FALL STREET,  
DEFENDANT-APPELLANT.  
(ACTION NO. 1.)

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JASON PHILLIPS, ET AL., PLAINTIFFS,

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VILLAGE OF SENECA FALLS, DEFENDANT-RESPONDENT.  
(ACTION NO. 2.)

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COSTELLO, COONEY & FEARON, PLLC, SYRACUSE (MAUREEN G. FATCHERIC OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

WEBSTER SZANYI LLP, BUFFALO (RYAN G. SMITH OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Seneca County (Dennis F. Bender, A.J.), entered January 28, 2010. The order, insofar as appealed from, granted the motion of defendant Village of Seneca Falls for summary judgment dismissing the complaint and all cross claims against it and denied the cross motion of defendant Jon W. Buchwald, individually and as owner of property at 86 Fall Street, for leave to serve an amended answer.

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

Entered: February 10, 2011

Patricia L. Morgan  
Clerk of the Court