

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

1151

CA 08-02263

PRESENT: SCUDDER, P.J., SMITH, CARNI, PINE, AND GORSKI, JJ.

JOHN T. NOTHNAGLE, INC.,
PLAINTIFF-RESPONDENT-APPELLANT,

V

ORDER

PETER G. CHIARIELLO, ELMER'S BRIGHTON
GARAGE, INC.,
DEFENDANTS-APPELLANTS-RESPONDENTS,
JOHN F. NICASTRO, 1832-1840 MONROE AVE., LLC,
AND 1848 MONROE AVE., LLC,
DEFENDANTS-RESPONDENTS.
(APPEAL NO. 1.)

CARL L. FEINSTOCK, ROCHESTER, FOR DEFENDANTS-APPELLANTS-RESPONDENTS.

EVANS & FOX LLP, ROCHESTER (RICHARD J. EVANS OF COUNSEL), FOR
PLAINTIFF-RESPONDENT-APPELLANT.

ROBERT F. LEONE, ROCHESTER, FOR DEFENDANTS-RESPONDENTS.

Appeal and cross appeal from an order of the Supreme Court,
Monroe County (Kenneth R. Fisher, J.), entered October 9, 2008 in a
breach of contract action. The order, inter alia, granted in part
plaintiff's motion for summary judgment.

It is hereby ORDERED that said appeal and cross appeal are
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: October 9, 2009

Patricia L. Morgan
Clerk of the Court