

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

1333

CA 09-00311

PRESENT: MARTOCHE, J.P., PERADOTTO, GREEN, AND PINE, JJ.

EMERGENCY ENCLOSURES, INC.,
PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

NATIONAL FIRE ADJUSTMENT CO., INC.,
DEFENDANT-APPELLANT,
ET AL., DEFENDANT.
(APPEAL NO. 2.)

FIX SPINDELMAN BROVITZ & GOLDMAN, P.C., FAIRPORT (ROY Z. ROTENBERG OF
COUNSEL), FOR DEFENDANT-APPELLANT.

LECLAIR KORONA GIORDANO COLE LLP, ROCHESTER (PAUL L. LECLAIR OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from a judgment and order (one paper) of the Supreme Court, Monroe County (John J. Ark, J.), entered November 10, 2008. The judgment and order denied the motion of defendant National Fire Adjustment Co., Inc. for summary judgment dismissing the complaint against it.

It is hereby ORDERED that the judgment and order so appealed from is unanimously modified on the law by granting the motion in part and dismissing the eighth cause of action against defendant National Fire Adjustment Co., Inc. and as modified the judgment and order is affirmed without costs.

Same Memorandum as in *Emergency Enclosures, Inc. v National Fire Adj. Co., Inc.* ([appeal No. 1] ___ AD3d ___ [Dec. 30, 2009]).

Entered: December 30, 2009

Patricia L. Morgan
Clerk of the Court