

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

1165

CA 11-00070

PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, SCONIERS, AND GREEN, JJ.

KURT A. WIEDENHAUPT, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

PAUL F. HOGAN, JR., DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP, BUFFALO (JAMES W. GRESENS OF COUNSEL), FOR DEFENDANT-APPELLANT.

JAECKLE FLEISCHMANN & MUGEL, LLP, BUFFALO (HEATH J. SZYMCZAK OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Frederick J. Marshall, J.), entered August 16, 2010. The order granted plaintiff's motion for summary judgment in lieu of complaint.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Same Memorandum as in *Wiedenhaupt v Hogan* ([appeal No. 2] ___ AD3d ___ [Nov. 18, 2011]).

Entered: November 18, 2011

Patricia L. Morgan
Clerk of the Court