

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

**1427.1**

**CA 11-00666**

PRESENT: SCUDDER, P.J., CENTRA, GREEN, GORSKI, AND MARTOCHE, JJ.

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LEO J. ROTH CORPORATION, PLAINTIFF-RESPONDENT,

V

ORDER

TRADEMARK DEVELOPMENT CO., INC., LEGACY AT ERIE  
STATION LLC, U.S. HOMES CO., INC., LEGACY AT  
FAIRWAYS LLC, AND MARK IV CONSTRUCTION CO., INC.,  
DEFENDANTS-APPELLANTS.  
(APPEAL NO. 1.)

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GATES & ADAMS, P.C., ROCHESTER (ANTHONY J. ADAMS, JR., OF COUNSEL),  
FOR DEFENDANTS-APPELLANTS.

HARRIS BEACH PLLC, PITTSFORD (DAVID J. EDWARDS OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Monroe County (Kenneth R. Fisher, J.), entered November 18, 2010 in a breach of contract action. The order granted in part plaintiff's motion for summary judgment.

It is hereby ORDERED that said appeal is 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: December 23, 2011

Frances E. Cafarell  
Clerk of the Court