

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

1372

CA 11-01068

PRESENT: FAHEY, J.P., PERADOTTO, LINDLEY, GREEN, AND GORSKI, JJ.

UTILITY SERVICES CONTRACTING, INC.,
PLAINTIFF-RESPONDENT-APPELLANT,

V

MEMORANDUM AND ORDER

MONROE COUNTY WATER AUTHORITY,
DEFENDANT-APPELLANT-RESPONDENT.
(APPEAL NO. 2.)

HARTER SECREST & EMERY LLP, ROCHESTER (F. PAUL GREENE OF COUNSEL), FOR
DEFENDANT-APPELLANT-RESPONDENT.

MURA & STORM, PLLC, BUFFALO (ERIC T. BORON OF COUNSEL), FOR
PLAINTIFF-RESPONDENT-APPELLANT.

Appeal and cross appeal from an order of the Supreme Court, Monroe County (Kenneth R. Fisher, J.), entered January 4, 2011 in a breach of contract action. The order, among other things, granted the motion of defendant for leave to reargue and upon reargument adhered to its prior ruling on defendant's motion for summary judgment.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by granting that part of defendant's motion for summary judgment dismissing the first cause of action to the extent that it sought consequential damages and as modified the order is affirmed without costs.

Same Memorandum as in *Utility Servs. Contr. v Monroe County Water Auth.* ([appeal No. 1] ___ AD3d ___ [Dec. 30, 2011]).

Entered: December 30, 2011

Frances E. Cafarell
Clerk of the Court