

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

520

**CA 11-02066**

PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND SCONIERS, JJ.

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JEAN I. KNAPP, PLAINTIFF-RESPONDENT-APPELLANT,

V

ORDER

RICHARD H. NICHOLS, INDIVIDUALLY AND RICHARD H. NICHOLS, DOING BUSINESS AS NICHOLS FINANCIAL SERVICES, DEFENDANT-APPELLANT-RESPONDENT.  
(ACTION NO. 1.)

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CAROL A. TONZI, PLAINTIFF-RESPONDENT-APPELLANT,

V

RICHARD H. NICHOLS, INDIVIDUALLY AND RICHARD H. NICHOLS, DOING BUSINESS AS NICHOLS FINANCIAL SERVICES, DEFENDANT-APPELLANT-RESPONDENT.  
(ACTION NO. 2.)

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UNDERBERG & KESSLER, LLP, ROCHESTER (COLIN D. RAMSEY OF COUNSEL), FOR DEFENDANT-APPELLANT-RESPONDENT.

FOLEY AND FOLEY, PALMYRA (JAMES F. FOLEY OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS-APPELLANTS.

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Appeal and cross appeals from an order of the Supreme Court, Wayne County (Thomas M. Van Strydonck, J.), entered August 16, 2011. The order granted the motion of defendant for consolidation and denied as untimely the motion of defendant to dismiss the fourth cause of action in action No. 1.

Now, upon the stipulation of discontinuance signed by the attorneys for the parties on January 24 and 30, 2012,

It is hereby ORDERED that said cross appeals are unanimously dismissed upon stipulation, and the order is affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: April 20, 2012

Frances E. Cafarell  
Clerk of the Court