

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

958

CA 11-01979

PRESENT: SCUDDER, P.J., CENTRA, CARNI, SCONIERS, AND MARTOCHE, JJ.

KIMBERLY MITCHELL CONVERSE, PLAINTIFF,

V

ORDER

DOLE FOOD COMPANY, INC., DOLE FRESH
FRUIT COMPANY, DEFENDANTS-APPELLANTS,
AND LEONARD'S EXPRESS, INC.,
DEFENDANT-RESPONDENT.
(APPEAL NO. 1.)

RUPP, BAASE, PFALZGRAF, CUNNINGHAM & COPPOLA, LLC, BUFFALO (R. ANTHONY
RUPP, III, OF COUNSEL), FOR DEFENDANTS-APPELLANTS.

RUBIN, FIORELLA & FRIEDMAN LLP, NEW YORK CITY (STEWART B. GREENSPAN OF
COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Steuben County (Peter C. Bradstreet, A.J.), entered December 15, 2010 in a personal injury action. The order, inter alia, denied the motion of defendants Dole Food Company, Inc. and Dole Fresh Fruit Company for summary judgment on contractual indemnification against defendant Leonard's Express, Inc.

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: September 28, 2012

Frances E. Cafarell
Clerk of the Court