

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

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CA 12-01178

PRESENT: SMITH, J.P., FAHEY, SCONIERS, VALENTINO, AND WHALEN, JJ.

BUYER'S FIRST CHOICE, INC., DOING BUSINESS
AS 2.5 % REAL ESTATE DIRECT,
PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

JOANNE SIMME, ALSO KNOWN AS JOANNE SIMME-GOOD,
DOING BUSINESS AS GOOD CHOICE,
DEFENDANT-RESPONDENT.
(APPEAL NO. 2.)

MICHAEL RAKOWSKI, DEPEW, FOR PLAINTIFF-APPELLANT.

WEISS & DETIG, GRAND ISLAND (NORTON T. LOWE OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from an order of the Erie County Court (Thomas P. Franczyk, J.), entered January 23, 2012. The order denied the motion of plaintiff to dismiss defendant's amended answer and second amended answer.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Same Memorandum as in *Buyer's First Choice, Inc. v Simme* ([appeal No. 1] ___ AD3d ___ [June 7, 2013]).

Entered: June 7, 2013

Frances E. Cafarell
Clerk of the Court