

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

1022

CA 13-00432

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

KIMBERLY TRATT,
PLAINTIFF-RESPONDENT-APPELLANT,

V

MEMORANDUM AND ORDER

COUNTY OF CAYUGA, CAYUGA COUNTY TREASURER'S
OFFICE, DEFENDANTS-APPELLANTS-RESPONDENTS,
ET AL., DEFENDANT.

THE LAW FIRM OF FRANK W. MILLER, EAST SYRACUSE (FRANK W. MILLER OF
COUNSEL), FOR DEFENDANTS-APPELLANTS-RESPONDENTS.

O'HARA, O'CONNELL & CIOTOLI, FAYETTEVILLE (STEPHEN CIOTOLI OF
COUNSEL), FOR PLAINTIFF-RESPONDENT-APPELLANT.

Appeal and cross appeal from an order of the Supreme Court, Cayuga County (Thomas G. Leone, A.J.), entered August 13, 2012. The order, among other things, denied the motion of defendants County of Cayuga and Cayuga County Treasurer's Office for summary judgment dismissing plaintiff's 10th cause of action against them and denied that part of the cross motion of plaintiff for summary judgment dismissing certain affirmative defenses.

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

Memorandum: We affirm for reasons stated in the decision at Supreme Court. We write only to note that plaintiff failed to meet her burden of establishing her entitlement to partial summary judgment on liability on the 10th cause of action, for quid pro quo sexual harassment (*see generally Alvarez v Prospect Hosp.*, 68 NY2d 320, 324; *Mauro v Orville*, 259 AD2d 89, 91-93, *lv denied* 94 NY2d 759).

Entered: October 4, 2013

Frances E. Cafarell
Clerk of the Court