

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

**998**

**CA 13-01394**

PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, AND VALENTINO, JJ.

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DEVON FAISON AND TIERRA FAISON, AN INFANT, BY  
HER PARENT AND NATURAL GUARDIAN, KIMBERLY  
BARNETT, PLAINTIFFS-APPELLANTS-RESPONDENTS,

V

MEMORANDUM AND ORDER

LEE LUONG, DEFENDANT-RESPONDENT-APPELLANT,  
JAMES L. CUYLER, ET AL., DEFENDANTS.  
(APPEAL NO. 3.)

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ATHARI & ASSOCIATES, LLC, NEW HARTFORD (MO ATHARI OF COUNSEL), FOR  
PLAINTIFFS-APPELLANTS-RESPONDENTS.

SLIWA & LANE, BUFFALO (STANLEY J. SLIWA OF COUNSEL), FOR  
DEFENDANT-RESPONDENT-APPELLANT.

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Appeal and cross appeal from an order of the Supreme Court,  
Monroe County (John J. Ark, J.), entered June 7, 2013. The order,  
among other things, denied the motion of defendant Lee Luong for  
summary judgment and denied the cross motion of plaintiffs for summary  
judgment.

It is hereby ORDERED that said appeal and cross appeal are  
unanimously dismissed without costs.

Same Memorandum as in *Faison v Luong* ([appeal No. 1] \_\_\_ AD3d \_\_\_  
[Nov. 14, 2014]).

Entered: November 14, 2014

Frances E. Cafarell  
Clerk of the Court