

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

560

CA 10-01230

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

---

STATE OF NEW YORK, PLAINTIFF-RESPONDENT,

V

ORDER

TERRY KEAR, JERRY MICHAEL KEAR, AS ADMINISTRATOR  
OF THE ESTATE OF DONALD KEAR, DECEASED, SANDBURG  
OIL CO., INC., DEFENDANTS-RESPONDENTS,  
AND GRIFFITH OIL CO., INC., DEFENDANT-APPELLANT.

---

TREVETT CRISTO SALZER & ANDOLINA P.C., ROCHESTER (AMANDA R. INSALACO  
OF COUNSEL), FOR DEFENDANT-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (KATHLEEN M. ARNOLD OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

PHILLIPS LYTTLE LLP, BUFFALO (KEVIN M. HOGAN OF COUNSEL), FOR  
DEFENDANT-RESPONDENT SANDBERG OIL CO., INC.

---

Appeal from an order of the Supreme Court, Allegany County  
(Thomas P. Brown, A.J.), entered March 18, 2010. The order denied the  
motion of defendant Griffith Oil Co., Inc. for summary judgment  
dismissing the complaint and cross claims against it.

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

Entered: April 29, 2011

Patricia L. Morgan  
Clerk of the Court