

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

495

CA 12-00931

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

JAMES S. DAVIS, ROBERT C. BOSSERT, JR.,
CHARLES D. BEAVER, DAVID A. RODKEY, ALBERT E.
WEISSER AND JOHN W. HUPP, PLAINTIFFS-APPELLANTS,

V

ORDER

THOMAS T. WISKUP, SR., THOMAS T. WISKUP, JR.,
LAURA STANISZEWSKI, ROBERT C. WISKUP AND POTTER
LUMBER COMPANY, INC., DEFENDANTS-RESPONDENTS.
(APPEAL NO. 1.)

MACDONALD, ILLIG, JONES & BRITTON LLP, ERIE, PENNSYLVANIA (GREGORY P.
ZIMMERMAN OF COUNSEL), FOR PLAINTIFFS-APPELLANTS.

BACKHAUS & SIMON, P.C., OLEAN (ROBERT J. SIMON OF COUNSEL), FOR
DEFENDANT-RESPONDENT POTTER LUMBER COMPANY, INC.

Appeal from an order of the Supreme Court, Cattaraugus County
(Gerald J. Whalen, J.), entered March 8, 2012. The order denied the
motion of plaintiffs for summary judgment and granted in part the
cross motion of defendant Potter Lumber Company, Inc. for summary
judgment.

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: May 3, 2013

Frances E. Cafarell
Clerk of the Court