

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

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CA 15-00897

PRESENT: SMITH, J.P., PERADOTTO, CURRAN, AND SCUDDER, JJ.

CHARLES TERWILLIGER AND HELEN TERWILLIGER,
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

MAX CO., LTD., MAX USA CORP., AND NUMAX, INC.,
DEFENDANTS-APPELLANTS.
(APPEAL NO. 2.)

GOLDBERG SEGALLA, LLP, BUFFALO (JOHN P. FREEDENBERG OF COUNSEL), FOR
DEFENDANTS-APPELLANTS.

PAUL WILLIAM BELTZ, P.C., BUFFALO (ANNE B. RIMMLER OF COUNSEL), FOR
PLAINTIFF-RESPONDENT CHARLES TERWILLIGER.

LAW OFFICES OF RICHARD S. BINKO, CHEEKTOWAGA (RICHARD S. BINKO OF
COUNSEL), FOR PLAINTIFF-RESPONDENT HELEN TERWILLIGER.

Appeal from an order of the Supreme Court, Erie County (Patrick H. NeMoyer, J.), entered January 20, 2015. The order, insofar as appealed from, granted in part the motions of plaintiffs for leave to reargue and, upon reargument, denied that part of the motion of defendants seeking summary judgment dismissing the claim of breach of implied warranty of merchantability/fitness for ordinary purposes.

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

Same memorandum as in *Terwilliger v Max Co., Ltd.* ([appeal No. 1] ___ AD3d ___ [Mar. 25, 2016]).

Entered: March 25, 2016

Frances E. Cafarell
Clerk of the Court