

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

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CA 09-02289

PRESENT: SCUDDER, P.J., PERADOTTO, LINDLEY, AND GORSKI, JJ.

FORD MOTOR CREDIT COMPANY LLC,
PLAINTIFF-APPELLANT,

V

ORDER

MIKE OGNIBENE FORD, INC. (FORMERLY KNOWN AS
BATAVIA FORD LINCOLN MERCURY, INC.), MIKE
OGNIBENE HOLDINGS, LLC, MIKE OGNIBENE
MOTORSPORTS, INC., MIKE OGNIBENE PROPERTIES,
INC., MIKE OGNIBENE, INC., OGNIBENE ASSOCIATES,
LLC, OGNIBENE, LLC, AND MICHAEL J. OGNIBENE,
DEFENDANTS-RESPONDENTS.

PHILLIPS LYTTLE LLP, BUFFALO (CRAIG A. LESLIE OF COUNSEL), FOR
PLAINTIFF-APPELLANT.

COLUCCI & GALLAHER, P.C., BUFFALO (PAUL G. JOYCE OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS.

Appeal from an order of the Supreme Court, Genesee County (Robert C. Noonan, A.J.), entered March 6, 2009. The order, insofar as appealed from, denied plaintiff's motion to preclude defendants from introducing evidence at trial in support of their first and second counterclaims and to dismiss those counterclaims.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: March 19, 2010

Patricia L. Morgan
Clerk of the Court