

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

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CA 09-01833

PRESENT: SMITH, J.P., CARNI, LINDLEY, SCONIERS, AND PINE, JJ.

MICHAEL HENNER AND ELIZABETH HENNER,
PLAINTIFFS-APPELLANTS-RESPONDENTS,

V

MEMORANDUM AND ORDER

EVERDRY MARKETING AND MANAGEMENT, INC.,
ET AL., DEFENDANTS,
CONTINENTAL CASUALTY COMPANY, TRANSPORTATION
INSURANCE COMPANY, AND AMERICAN CASUALTY
COMPANY OF READING, PA,
DEFENDANTS-RESPONDENTS-APPELLANTS.
(APPEAL NO. 2.)

KNAUF SHAW LLP, ROCHESTER (ALAN J. KNAUF OF COUNSEL), FOR
PLAINTIFFS-APPELLANTS-RESPONDENTS.

COLLIAU ELENIOUS MURPHY CARLUCCIO KEENER & MORROW, NEW YORK CITY (DEAN
J. VIGLIANO OF COUNSEL), FOR DEFENDANTS-RESPONDENTS-APPELLANTS.

Appeal and cross appeal from an order of the Supreme Court, Monroe County (Thomas A. Stander, J.), entered June 12, 2009. The order denied in part the motion of defendants Continental Casualty Company, Transportation Insurance Company, and American Casualty Company of Reading, PA for summary judgment dismissing the complaint against them.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by denying the motion in its entirety and reinstating the complaint in its entirety against defendants Continental Casualty Company, Transportation Insurance Company, and American Casualty Company of Reading, PA and as modified the order is affirmed without costs.

Same Memorandum as in *Henner v Everdry Mktg. and Mgt., Inc.* ([appeal No. 1] ___ AD3d ___ [June 11, 2010]).

Entered: June 11, 2010

Patricia L. Morgan
Clerk of the Court