

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

908

CA 12-00480

PRESENT: SMITH, J.P., PERADOTTO, CARNI, LINDLEY, AND MARTOCHE, JJ.

MARK DMOCHOWSKI, PLAINTIFF-RESPONDENT,

V

ORDER

PREFERRED MUTUAL INSURANCE COMPANY,
DEFENDANT-APPELLANT.

PREFERRED MUTUAL INSURANCE COMPANY,
PLAINTIFF-APPELLANT-RESPONDENT,

V

DAVID CLARK, MICHELLE CLARK,
DEFENDANTS-RESPONDENTS-APPELLANTS,
MARK DMOCHOWSKI AND ROBIN DMOCHOWSKI,
DEFENDANTS-RESPONDENTS.

BROWN & KELLY, LLP, BUFFALO (JOSEPH M. SCHNITTER OF COUNSEL), FOR
DEFENDANT-APPELLANT AND PLAINTIFF-APPELLANT-RESPONDENT.

MYERS, QUINN & SCHWARTZ, LLP, WILLIAMSVILLE (JAMES I. MYERS OF
COUNSEL), FOR DEFENDANTS-RESPONDENTS-APPELLANTS.

THE LAW OFFICES OF WAYNE C. FELLE, P.C., WILLIAMSVILLE (WAYNE C. FELLE
OF COUNSEL), FOR PLAINTIFF-RESPONDENT AND DEFENDANTS-RESPONDENTS.

Appeal and cross appeal from a judgment of the Supreme Court,
Erie County (Frank A. Sedita, Jr., J.), entered September 1, 2011.
The judgment, insofar as appealed from, granted that part of the
motion of defendants David Clark and Michelle Clark for summary
judgment declaring that defendant-plaintiff Preferred Mutual Insurance
Company shall provide them with a defense and indemnification for all
claims asserted by plaintiff-defendant Mark Dmochowski and defendant
Robin Dmochowski and otherwise denied their motion, and denied in part
the cross motion of Preferred Mutual Insurance Company for summary
judgment.

Now, upon the stipulation of discontinuance signed by the
attorneys for the parties on April 26, 2012, and filed in the Erie
County Clerk's Office on May 7, 2012,

It is hereby ORDERED that said appeal and cross appeal are

unanimously dismissed without costs upon stipulation.

Entered: September 28, 2012

Frances E. Cafarell
Clerk of the Court