

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

1297

CA 13-00507

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, SCONIERS, AND WHALEN, JJ.

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AMERICAN TOWER ASSET SUB, LLC AND AMERICAN  
TOWER ASSET SUB II, LLC, PLAINTIFFS-RESPONDENTS,

V

ORDER

BUFFALO-LAKE ERIE WIRELESS SYSTEMS, CO., LLC,  
DEFENDANT-APPELLANT.

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LIPPES MATHIAS WEXLER FRIEDMAN LLP, BUFFALO (THOMAS J. GAFFNEY OF  
COUNSEL), AND HOFFNER PLLC, NEW YORK CITY, FOR DEFENDANT-APPELLANT.

MCELROY, DEUTSCH, MULVANEY & CARPENTER, LLP, NEW YORK CITY (WILLIAM N.  
AUMENTA OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (John A. Michalek, J.), entered August 3, 2012. The order, among other things, granted the motion of plaintiffs for partial summary judgment dismissing the first counterclaim and denied the cross motion of defendant for partial summary judgment.

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

Entered: December 27, 2013

Frances E. Cafarell  
Clerk of the Court