

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

638

CA 13-01521

PRESENT: SCUDDER, P.J., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ.

RESETARITS CONSTRUCTION CORPORATION,
PLAINTIFF-RESPONDENT,

V

ORDER

ELIZABETH PIERCE OLMSTED, M.D. CENTER FOR THE
VISUALLY IMPAIRED, DEFENDANT-APPELLANT,
AND EPO-STOVROFF HOUSING DEVELOPMENT FUND CORP.,
DEFENDANT.

ELIZABETH PIERCE OLMSTED, M.D. CENTER FOR THE
VISUALLY IMPAIRED AND EPO-STOVROFF HOUSING
DEVELOPMENT FUND CORP., THIRD-PARTY PLAINTIFFS,

V

PHILADELPHIA INDEMNITY INSURANCE COMPANY,
THIRD-PARTY DEFENDANT.
(APPEAL NO. 1.)

JAECKLE FLEISCHMANN & MUGEL, LLP, BUFFALO (BEVERLY S. BRAUN OF
COUNSEL), FOR DEFENDANT-APPELLANT.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (ANDREW O. MILLER OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered May 15, 2013. The order, among other things, granted that part of plaintiff's motion seeking summary judgment against defendant Elizabeth Pierce Olmstead, M.D. Center for the Visually Impaired.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Hughes v Nussbaumer, Clarke & Velzy*, 140 AD2d 988; *Chase Manhattan Bank, N.A. v Roberts & Roberts*, 63 AD2d 566, 567; CPLR 5501 [a] [1]).

Entered: June 20, 2014

Frances E. Cafarell
Clerk of the Court