

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

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**CA 14-00963**

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

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MARGARET PASSUCCI, AS ADMINISTRATRIX OF THE  
ESTATE OF LUCILLE FIERLE, DECEASED,  
PLAINTIFF-RESPONDENT-APPELLANT,

V

ORDER

ABSOLUT CENTER FOR NURSING AND REHABILITATION  
AT ALLEGANY, LLC, ABSOLUT CENTER FOR NURSING  
AND REHABILITATION AT AURORA PARK, LLC, ABSOLUT  
CENTER FOR NURSING AND REHABILITATION AT  
DUNKIRK, LLC, ABSOLUT CENTER FOR NURSING AND  
REHABILITATION AT EDEN, LLC, ABSOLUT CENTER FOR  
NURSING AND REHABILITATION AT ENDICOTT, LLC,  
ABSOLUT CENTER FOR NURSING AND REHABILITATION AT  
GASPORT, LLC, ABSOLUT CENTER FOR NURSING AND  
REHABILITATION AT HOUGHTON, LLC, ABSOLUT CENTER  
FOR NURSING AND REHABILITATION AT ORCHARD PARK, LLC,  
ABSOLUT CENTER FOR NURSING AND REHABILITATION AT  
SALAMANCA, LLC, ABSOLUT CENTER FOR NURSING AND  
REHABILITATION AT THREE RIVERS, LLC, ABSOLUT CENTER  
FOR NURSING AND REHABILITATION AT WESTFIELD, LLC,  
ABSOLUT FACILITIES MANAGEMENT, LLC, ISRAEL SHERMAN,  
AND JOHN DOES 1-200,  
DEFENDANTS-APPELLANTS-RESPONDENTS.

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PHILLIPS LYTTLE LLP, BUFFALO (WILLIAM J. BRENNAN OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS-RESPONDENTS.

BROWN CHIARI LLP, LANCASTER (MICHAEL C. SCINTA OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT-APPELLANT.

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Appeal and cross appeal from an order of the Supreme Court, Erie  
County (Patrick H. NeMoyer, J.), entered January 10, 2014. The order  
granted in part and denied in part the motion of plaintiff for class  
certification.

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: February 6, 2015

Frances E. Cafarell  
Clerk of the Court