

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

1046

CA 14-01842

PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND DEJOSEPH, JJ.

ERICK J. MILLER AND AMY RYAN,
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

ALLSTATE INDEMNITY COMPANY,
DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

RUPP BAASE PFALZGRAF CUNNINGHAM LLC, BUFFALO (ANTHONY G. MARECKI OF
COUNSEL), FOR DEFENDANT-APPELLANT.

LAW OFFICE OF FRANK G. MONTEMALO, PLLC, ROCHESTER (FRANK G. MONTEMALO
OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Monroe County (Ann Marie Taddeo, J.), entered August 22, 2014. The order, insofar as appealed from, denied that part of defendant's motion seeking dismissal of plaintiffs' claim for punitive damages.

It is hereby ORDERED that the order insofar as appealed from is unanimously reversed on the law without costs and that part of defendant's motion seeking dismissal of plaintiffs' claims for punitive damages is granted.

Same memorandum as in *Miller v Allstate Indem. Co.* ([appeal No. 1] ___ AD3d ___ [Oct. 2, 2015]).

Entered: October 2, 2015

Frances E. Cafarell
Clerk of the Court