

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

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CA 15-00502

PRESENT: SMITH, J.P., PERADOTTO, CURRAN, AND SCUDDER, JJ.

PAULA GIBBS, PLAINTIFF-APPELLANT,

V

ORDER

STATE FARM FIRE AND CASUALTY CO.,
DEFENDANT-RESPONDENT.
(APPEAL NO. 1.)

ZDARSKY, SAWICKI & AGOSTINELLI LLP, BUFFALO (GERALD T. WALSH OF
COUNSEL), FOR PLAINTIFF-APPELLANT.

MURA & STORM, PLLC, BUFFALO (ERIC T. BORON OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Patrick H. NeMoyer, J.), entered December 4, 2014. The order, insofar as appealed from, granted in part the motion of defendant to set aside a verdict and ordered a new trial on damages to the dwelling and additional living expenses unless plaintiff stipulates to damages of \$43,000 and \$11,669.60, respectively.

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; *see also CPLR 5501 [a] [1]*).

Entered: March 18, 2016

Frances E. Cafarell
Clerk of the Court