

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

1107

CA 16-00380

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, NEMOYER, AND TROUTMAN, JJ.

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STAMM LAW FIRM AND GREGORY STAMM, ESQ.,  
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

ROSEMARY LIGOTTI, DEFENDANT-APPELLANT.

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LAW OFFICE OF JOSEPH G. MAKOWSKI, LLC, BUFFALO (JOSEPH G. MAKOWSKI OF COUNSEL), FOR DEFENDANT-APPELLANT.

LAW OFFICE OF THOMAS C. PARES, BUFFALO, MAGAVERN MAGAVERN GRIMM LLP (EDWARD J. MARKARIAN OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (Donna M. Siwek, J.), entered May 15, 2015. The order, inter alia, denied that part of defendant's motion seeking to dismiss the complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Defendant appeals from an order that, inter alia, denied that part of her motion pursuant to CPLR 3211 to dismiss the complaint. We conclude that Supreme Court properly denied that part of the motion. Contrary to defendant's contention, an attorney's failure to comply with the rules for retainer agreements set forth in 22 NYCRR 1215.1 does not preclude that attorney from recovering under the terms of a " 'fair, understood, and agreed upon' " fee arrangement (*Ferst v Abraham*, 140 AD3d 581, 582; see *Frechtman v Gutterman*, 140 AD3d 538, 538; *Chase v Bowen*, 49 AD3d 1350, 1350-1351).

Entered: December 23, 2016

Frances E. Cafarell  
Clerk of the Court