

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

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CA 16-00815

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

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TROY L. SHUKNECHT, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

DALE SHUKNECHT, MARC SHUKNECHT, TRIPLE S FARMS,  
A NEW YORK PARTNERSHIP, LEE SHUKNECHT, JOAN  
SHUKNECHT, LS & SONS FARMS, LLC, AND TRIPLE S  
ENTERPRISES, LLC, DEFENDANTS-APPELLANTS.

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TROY L. SHUKNECHT AND LISA SHUKNECHT,  
PLAINTIFFS-RESPONDENTS,

V

JOAN SHUKNECHT, DEFENDANT-APPELLANT.

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LACY KATZEN LLP, ROCHESTER (MICHAEL J. WEGMAN OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS.

DADD, NELSON, WILKINSON & WUJCIK, ATTICA (JAMES M. WUJCIK OF COUNSEL),  
FOR PLAINTIFFS-RESPONDENTS.

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Appeal from an order and judgment (one paper) of the Supreme Court, Genesee County (Timothy J. Walker, A.J.), entered November 20, 2015. The order and judgment dismissed defendants' counterclaims on the merits with prejudice upon plaintiffs' motion for a directed verdict.

It is hereby ORDERED that the order and judgment so appealed from is unanimously reversed on the law without costs, the motion is denied, the counterclaims are reinstated, and a new trial is granted.

Memorandum: Following a trial on their counterclaims, defendants appeal from an order and judgment that granted plaintiffs' motion, made at the close of defendants' proof, for a directed verdict dismissing the counterclaims. Defendants contend that Supreme Court erred in granting the motion. We agree, and we therefore reverse. It is well settled that " 'a directed verdict is appropriate where the . . . court finds that, upon the evidence presented, there is no rational process by which the fact trier could base a finding in favor of the nonmoving party . . . In determining whether to grant a motion for a directed verdict pursuant to CPLR 4401, the trial court must afford the party opposing the motion every inference which may properly be drawn from the facts presented, and the facts must be

considered in a light most favorable to the nonmovant' " (*A&M Global Mgt. Corp. v Northtown Urology Assoc., P.C.*, 115 AD3d 1283, 1287-1288; see *Szczerbiak v Pilat*, 90 NY2d 553, 556). Applying those standards here, we conclude that the court erred in granting the motion for a directed verdict dismissing the counterclaims.

Entered: February 3, 2017

Frances E. Cafarell  
Clerk of the Court