

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

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CA 18-02257

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

TERESSA CHAPLIN AND GABRIELLE CHAPLIN,
PLAINTIFFS-APPELLANTS,

V

MEMORANDUM AND ORDER

TIM N. TOMPKINS, DEFENDANT-RESPONDENT,
AND WEST MAIN STREET PARTNERS, L.P., DEFENDANT.
(APPEAL NO. 2.)

ATHARI & ASSOCIATES, LLC, NEW HARTFORD (MO ATHARI OF COUNSEL), FOR
PLAINTIFFS-APPELLANTS.

ECKERT SEAMANS CHERIN & MELLOTT, LLC, WHITE PLAINS (SARAH H. MORRISSEY
OF COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Monroe County (John J. Ark, J.), entered September 6, 2018. The order granted the motion of defendant Tim N. Tompkins to dismiss the complaint against him.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by denying the motion in part and reinstating the complaint against defendant Tim N. Tompkins except insofar as it asserts claims for patent injuries arising from plaintiffs' exposure to lead paint, and as modified the order is affirmed without costs.

Same memorandum as in *Chaplin v Tompkins* ([appeal No. 1], - AD3d - [June 7, 2019] [4th Dept 2019]).

Entered: June 7, 2019

Mark W. Bennett
Clerk of the Court