

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

**739**

**CA 20-01366**

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

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IN THE MATTER OF KAREN J. MURRAY AND CHS  
MOBILE INTEGRATED HEALTH CARE, INC.,  
PETITIONERS-PLAINTIFFS-APPELLANTS-RESPONDENTS,

V

MEMORANDUM AND ORDER

NORTH GREECE FIRE DISTRICT,  
RESPONDENT-DEFENDANT-RESPONDENT-APPELLANT,  
AND MONROE MEDI-TRANS, INC., DOING BUSINESS  
AS MONROE AMBULANCE (AS A NECESSARY PARTY),  
RESPONDENT-DEFENDANT-RESPONDENT.

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PINSKY LAW GROUP, PLLC, SYRACUSE (BRADLEY M. PINSKY OF COUNSEL), FOR  
PETITIONERS-PLAINTIFFS-APPELLANTS-RESPONDENTS.

HANNIGAN LAW FIRM PLLC, DELMAR (TIMOTHY C. HANNIGAN OF COUNSEL), FOR  
RESPONDENT-DEFENDANT-RESPONDENT-APPELLANT.

GIRVIN & FERLAZZO, P.C., ALBANY (PATRICK J. FITZGERALD OF COUNSEL),  
FOR RESPONDENT-DEFENDANT-RESPONDENT.

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Appeal and cross appeal from an order and judgment (one paper) of the Supreme Court, Monroe County (William K. Taylor, J.), entered October 14, 2020. The order and judgment, among other things, dismissed the first, third and fourth causes of action in the amended petition-complaint.

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

Memorandum: We affirm for reasons stated in the decision at Supreme Court. We add only that the court did not address that part of the motion of respondent-defendant North Greece Fire District (District) seeking an award of attorney's fees and costs, and thus it was deemed denied (*see Abasciano v Dandrea*, 83 AD3d 1542, 1543 [4th Dept 2011]; *Brown v U.S. Vanadium Corp.*, 198 AD2d 863, 864 [4th Dept 1993]). Contrary to the District's contention on its cross appeal, we conclude that the motion was properly denied to that extent inasmuch as the District provided no evidence that petitioners-plaintiffs engaged in frivolous conduct (*see* 22 NYCRR 130-1.1 [c]).

Entered: November 12, 2021

Ann Dillon Flynn  
Clerk of the Court