

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

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**CA 21-01227**

PRESENT: SMITH, J.P., PERADOTTO, CURRAN, WINSLOW, AND MONTOUR, JJ.

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MICHAEL HALL AND MELISSA HALL,  
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

NEW YORK CENTRAL MUTUAL FIRE INSURANCE  
COMPANY, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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RUPP BAASE PFALZGRAF CUNNINGHAM LLC, BUFFALO (GREGORY S. GAGLIONE,  
JR., OF COUNSEL), FOR DEFENDANT-APPELLANT.

DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP, BUFFALO (CHRISTOPHER M.  
BERLOTH OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

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Appeal from an order and judgment (one paper) of the Supreme Court, Monroe County (Gail Donofrio, J.), entered August 23, 2021. The order and judgment awarded plaintiffs a money judgment against defendant.

It is hereby ORDERED that the order and judgment so appealed from is unanimously vacated, the order entered August 11, 2021 is reversed on the law without costs, the cross motion is denied, the motion is granted and the complaint is dismissed.

Same memorandum as in *Hall v New York Cent. Mut. Fire Ins. Co.* ([appeal No. 1] – AD3d – [Dec. 23, 2022] [4th Dept 2022]).

Entered: December 23, 2022

Ann Dillon Flynn  
Clerk of the Court