

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

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CA 22-00301

PRESENT: SMITH, J.P., LINDLEY, CURRAN, AND OGDEN, JJ.

DAVID BARKER, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

ANTHONY V. GERVERA, AMANDA D. GERVERA AND
FARM CREDIT EAST, ACA, DEFENDANTS-RESPONDENTS.
(APPEAL NO. 2.)

LONGSTREET & BERRY, LLP, FAYETTEVILLE (MICHAEL J. LONGSTREET OF
COUNSEL), FOR PLAINTIFF-APPELLANT.

COSTELLO, COONEY & FEARON, PLLC, SYRACUSE (MATTHEW W. O'NEIL OF
COUNSEL), FOR DEFENDANTS-RESPONDENTS ANTHONY V. GERVERA AND AMANDA D.
GERVERA.

HANCOCK & ESTABROOK, LLP, SYRACUSE (JANET D. CALLAHAN OF COUNSEL), FOR
DEFENDANT-RESPONDENT FARM CREDIT EAST, ACA.

Appeal from an order of the Supreme Court, Jefferson County (James P. McClusky, J.), entered February 17, 2022. The order, insofar as appealed from, granted the motion of defendant Farm Credit East, ACA to dismiss the action against it and granted in part the motion of defendants Anthony V. Gervera and Amanda D. Gervera to dismiss the action against them.

It is hereby ORDERED that the order insofar as appealed from is unanimously reversed on the law without costs, the motion of defendant Farm Credit East, ACA, is denied, the action against that defendant is reinstated, and the motion of defendants Anthony V. Gervera and Amanda D. Gervera is denied in its entirety.

Same memorandum as in *Barker v Gervera* ([appeal No. 1] – AD3d – [July 28, 2023] [4th Dept 2023]).

Entered: July 28, 2023

Ann Dillon Flynn
Clerk of the Court