

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

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**CA 08-00918**

PRESENT: HURLBUTT, J.P., SMITH, FAHEY, GREEN, AND PINE, JJ.

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JOSEPH P. HYLANT, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

MANUFACTURERS AND TRADERS TRUST COMPANY,  
DEFENDANT-RESPONDENT.

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JOSEPH P. HYLANT, PLAINTIFF-APPELLANT PRO SE.

HODGSON RUSS LLP, BUFFALO (RYAN K. CUMMINGS OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Gerald J. Whalen, J.), entered January 17, 2008. The order granted defendant's motion for summary judgment and dismissed the third amended complaint.

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

Memorandum: Plaintiff commenced this action seeking damages for the alleged breach of his employment agreement (agreement) with defendant. According to plaintiff, he was terminated without cause by defendant under the terms of the agreement. Pursuant to the agreement, plaintiff was entitled to a compensation package worth more than \$1,000,000 in the event that defendant terminated his employment without cause, and he was entitled to, inter alia, salary and unpaid vacation time up to the date of termination in the event that he was terminated either for cause or due to a disability. We conclude that Supreme Court properly granted defendant's motion for summary judgment dismissing the third amended complaint. Defendant met its initial burden by establishing that plaintiff was terminated for cause, and plaintiff failed to raise an issue of fact to defeat the motion (see generally *Zuckerman v City of New York*, 49 NY2d 557, 562). In view of our determination, we do not address defendant's alternative grounds for affirmance.

Entered: March 20, 2009

JoAnn M. Wahl  
Clerk of the Court