

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

985

CA 09-00254

PRESENT: SCUDDER, P.J., HURLBUTT, PERADOTTO, GREEN, AND GORSKI, JJ.

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CNP MECHANICAL, INC., PLAINTIFF-RESPONDENT,

V

ORDER

ALLIED BUILDERS, INC., HARTFORD FIRE INSURANCE  
COMPANY, HARTFORD CASUALTY COMPANY AND HARTFORD  
ACCIDENT AND INDEMNITY COMPANY,  
DEFENDANTS-APPELLANTS.  
(APPEAL NO. 1.)

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DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP, BUFFALO (JAMES W. GRESENS OF  
COUNSEL), FOR DEFENDANTS-APPELLANTS.

GATES & ADAMS, P.C., ROCHESTER (RICHARD T. BELL, JR., OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Monroe County (Kenneth R. Fisher, J.), entered September 10, 2008 in a breach of contract action. The order granted plaintiff's motion for partial summary judgment against defendant Allied Builders, Inc.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Hughes v Nussbaumer, Clarke & Velzy*, 140 AD2d 988; *Chase Manhattan Bank, N.A. v Roberts & Roberts*, 63 AD2d 566, 567; *see also* CPLR 5501 [a] [1]).

Entered: October 2, 2009

Patricia L. Morgan  
Clerk of the Court