

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

**1174**

**CA 09-00070**

PRESENT: MARTOCHE, J.P., CENTRA, PERADOTTO, AND GREEN, JJ.

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CULLENWOOD FARMS, LLC, PLAINTIFF-APPELLANT,

V

ORDER

WESTERN NEW YORK LAND CONSERVANCY, INC.,  
DEFENDANT-RESPONDENT.  
(ACTION NO. 1.)

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WESTERN NEW YORK LAND CONSERVANCY, INC.,  
PLAINTIFF-RESPONDENT,

V

JOHN S. CULLEN AND CULLENWOOD FARMS, LLC,  
DEFENDANTS-APPELLANTS.  
(ACTION NO. 2.)  
(APPEAL NO. 2.)

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MC GEE & GELMAN, BUFFALO (MICHAEL R. MC GEE OF COUNSEL), FOR PLAINTIFF-  
APPELLANT AND DEFENDANTS-APPELLANTS.

RUPP, BAASE, PFALZGRAF, CUNNINGHAM & COPPOLA LLC, BUFFALO (R. ANTHONY  
RUPP, III, OF COUNSEL), FOR DEFENDANT-RESPONDENT AND PLAINTIFF-  
RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (John A. Michalek, J.), entered March 24, 2008 in a trespass action. The order, among other things, precluded defendants John S. Cullen and Cullenwood Farms, LLC from introducing certain evidence at trial.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (see CPLR 5501 [a] [1]).

Entered: October 2, 2009

Patricia L. Morgan  
Clerk of the Court