

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

1456

CA 09-00804

PRESENT: SMITH, J.P., PERADOTTO, GREEN, PINE, AND GORSKI, JJ.

GARY M. DISCHIAVI AND LINDA DISCHIAVI,
PLAINTIFFS-APPELLANTS,

V

MEMORANDUM AND ORDER

WILLIAM S. CALLI, ET AL., DEFENDANTS,
ROBERT CALLI, HERBERT CULLY, AND CALLI,
CALLI AND CULLY, DEFENDANTS-RESPONDENTS.
(APPEAL NO. 5.)

LUIBRAND LAW FIRM, PLLC, LATHAM (KEVIN A. LUIBRAND OF COUNSEL), FOR
PLAINTIFFS-APPELLANTS.

HISCOCK & BARCLAY, LLP, SYRACUSE (KEVIN M. HAYDEN OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS.

Appeal from a judgment of the Supreme Court, Oneida County
(Michael E. Daley, J.), entered January 12, 2009. The judgment
dismissed the complaint against defendants Robert Calli, Herbert
Cully, and Calli, Calli and Cully.

It is hereby ORDERED that the judgment so appealed from is
unanimously reversed on the law without costs, the motion is denied in
part and the complaint against defendants Robert Calli, Herbert Cully,
and Calli, Calli and Cully is reinstated.

Same Memorandum as in *Dischiavi v Calli* ([appeal No. 2] ___ AD3d
___ [Dec. 30, 2009]).

Entered: December 30, 2009

Patricia L. Morgan
Clerk of the Court