

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

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CA 09-01733

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

ERNESTINE WALKER AND RONNIE LEE WALKER,
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

NEIL H. GOLD AND SUSAN MATTICK-GOLD,
DEFENDANTS-APPELLANTS.

WILLIAMSON, CLUNE & STEVENS, ITHACA (ALLAN C. VANDEMARK OF COUNSEL),
FOR DEFENDANTS-APPELLANTS.

HALL AND KARZ, CANANDAIGUA (PETER ROLPH OF COUNSEL), FOR
PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Ontario County
(Frederick G. Reed, A.J.), entered June 24, 2009 in a personal injury
action. The order denied defendants' motion for summary judgment
dismissing the amended complaint.

It is hereby ORDERED that the order so appealed from is
unanimously reversed on the law without costs, the motion is granted
and the amended complaint is dismissed.

Memorandum: Defendants appeal from an order denying their motion
for summary judgment dismissing the amended complaint. Plaintiffs
commenced this action seeking damages for injuries sustained by
Ernestine Walker (plaintiff) when she was attacked by three dogs owned
by defendants' tenants. When plaintiff was attacked, she was on the
sidewalk across the street from defendants' property. Inasmuch as
"the incident did not occur on defendant[s'] property and therefore
defendant[s] owed no duty of care to [plaintiff], . . . Supreme Court
erred in denying defendant[s'] motion" (*Ruffin v Dykes*, 37 AD3d 1191;
see Seiger v Dercole, 50 AD3d 1524; *Weipert v Oldfield*, 298 AD2d 974).
We therefore reverse the order, grant the motion and dismiss the
amended complaint.

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court