

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

**253**

**CA 09-01852**

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

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GLEN POTTER, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

JAY E. POTTER LUMBER CO., INC.,  
DEFENDANT-RESPONDENT,  
AND JAMES LEATON AND ALAN LEATON, DOING  
BUSINESS AS LEATON FARMS, DEFENDANTS-APPELLANTS.  
(APPEAL NO. 2.)

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WALSH, ROBERTS & GRACE, BUFFALO (THOMAS E. ROBERTS OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS.

CELLINO & BARNES, P.C., ROCHESTER (RICHARD P. AMICO OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

COHEN & LOMBARDO, P.C., BUFFALO (JAMES J. NASH OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from a judgment of the Supreme Court, Wyoming County (Mark H. Dadd, A.J.), entered March 31, 2009 in a personal injury action. The judgment on liability was entered in favor of plaintiff and against defendants James Leaton and Alan Leaton, doing business as Leaton Farms, following a jury trial.

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

Same Memorandum as in *Potter v Jay E. Potter Lbr. Co., Inc.*  
([appeal No. 1] \_\_\_\_ AD3d \_\_\_\_ [Mar. 26, 2010]).

Entered: March 26, 2010

Patricia L. Morgan  
Clerk of the Court