

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

1157

CA 10-00269

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

FAC CONTINENTAL LLC, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

YICKJING567 LLC, DEFENDANT-RESPONDENT.
(APPEAL NO. 2.)

LEWANDOWSKI & ASSOCIATES, WEST SENECA (LINDSAY M. SWENSEN OF COUNSEL),
FOR PLAINTIFF-APPELLANT.

DREW & DREW, LLP, BUFFALO (CAROLYN NUGENT OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Gerald J. Whalen, J.), entered October 14, 2009 in a breach of contract action. The order awarded defendant money damages in the amount of \$15,000.

It is hereby ORDERED that the order so appealed from is unanimously reversed on the law without costs and the award of damages is vacated.

Same Memorandum as in *FAC Continental, LLC v Yickjing567* ([appeal No. 1] ____ AD3d ____ [Nov. 12, 2010]).

Entered: November 12, 2010

Patricia L. Morgan
Clerk of the Court