

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

258

CA 10-01069

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

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FS KIDS, LLC, DOING BUSINESS AS BUDWEY'S  
FOOD MARKET, MASK FOODS, INC., VALU HOME  
CENTERS, INC., KBLM FOODS, INC., DOING  
BUSINESS AS BLASDELL JUBILEE, KDJB  
FOODS, INC., DOING BUSINESS AS SAVE-A-LOT  
LACKAWANNA, GAIGE & SON GROCERY, INC.,  
DOING BUSINESS AS CORNING JUBILEE, TJ'S  
MARKET, INC., DOING BUSINESS AS HORSEHEADS  
JUBILEE, BB&T SUPERMARKETS INC., DOING  
BUSINESS AS ATTICA JUBILEE, BNR-LARSON, LLC,  
DOING BUSINESS AS CORFU IGA, AND GIFT EXPRESS  
OF NEW YORK, INC., DOING BUSINESS AS THE  
MARKET IN THE SQUARE, ON THEIR OWN BEHALF  
AND ON BEHALF OF ALL OTHERS SIMILARLY  
SITUATED AS THEY, AS FORMER EMPLOYEE  
MEMBERS/PARTICIPANTS IN THE WHOLESALE AND  
RETAIL WORKERS' COMPENSATION TRUST OF NEW  
YORK, PLAINTIFFS-RESPONDENTS,

ORDER

V

COMPENSATION RISK MANAGERS, LLC,  
DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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HITCHCOCK & CUMMINGS, LLP, NEW YORK CITY (CHRISTOPHER B. HITCHCOCK OF  
COUNSEL), AND CONNORS & VILARDO, LLP, BUFFALO, FOR  
DEFENDANT-APPELLANT.

PHILLIPS LYTTLE LLP, BUFFALO (KENNETH A. MANNING OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (John M. Curran, J.), entered April 14, 2010 in a breach of contract action. The order, among other things, denied in part defendant's motion to dismiss plaintiffs' second amended complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: March 25, 2011

Patricia L. Morgan  
Clerk of the Court