

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

521

CA 10-01953

PRESENT: SMITH, J.P., PERADOTTO, CARNI, SCONIERS, AND GREEN, JJ.

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SENECA PIPE & PAVING CO., INC.,  
PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

SOUTH SENECA CENTRAL SCHOOL DISTRICT,  
ET AL., DEFENDANTS,  
AND FREDERICO CONSTRUCTION COMPANY,  
DEFENDANT-RESPONDENT.  
(APPEAL NO. 2.)

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CAMARDO LAW FIRM, P.C., AUBURN (KEVIN M. COX OF COUNSEL), FOR  
PLAINTIFF-APPELLANT.

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Appeal from an order of the Supreme Court, Seneca County (David Michael Barry, J.), entered October 23, 2009 in a breach of contract action. The order denied the motion of plaintiff to amend its complaint to add an account stated cause of action and for a new trial on damages.

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

Same Memorandum as in *Seneca Pipe & Paving Co., Inc. v South Seneca Cent. School Dist.* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [Apr. 29, 2011]).

Entered: April 29, 2011

Patricia L. Morgan  
Clerk of the Court