

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

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CA 10-00956

PRESENT: CENTRA, J.P., CARNI, LINDLEY, GREEN, AND GORSKI, JJ.

JOSEPH MONTESANO, INDIVIDUALLY AND AS PRESIDENT OF ROCHESTER FIREFIGHTERS, INC., LOCAL 1071, IAFF, AFL-CIO, AS TRUSTEE OF ROCHESTER FIREFIGHTERS ASSOCIATION MUTUAL AID FUND, AND ON BEHALF OF ALL OTHER INDIVIDUALS PROVIDING FIRE PROTECTION TO CITY OF ROCHESTER, SIMILARLY SITUATED, FREDERICK DINOTO, GARY DINOTO, KEVIN BILLS AND MICHAEL SULLI, INDIVIDUALLY AS ROCHESTER FIREFIGHTERS AND AS TRUSTEES OF ROCHESTER FIREFIGHTERS ASSOCIATION MUTUAL AID FUND, AND ROCHESTER FIREFIGHTERS ASSOCIATION MUTUAL AID FUND, PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

FLOYD A. MADISON, AS CHIEF OF FIRE DEPARTMENT OF CITY OF ROCHESTER AND AS ADMINISTRATOR OF FIREFIGHTERS' INSURANCE FUND OF CITY OF ROCHESTER, WILLIAM A. JOHNSON, JR., AS MAYOR OF CITY OF ROCHESTER, VINCENT J. CARFAGNA, AS DIRECTOR OF THE CITY OF ROCHESTER'S FINANCE DEPARTMENT, CHARLES A. BENINCASA, AS TREASURER OF CITY OF ROCHESTER AND AS TRUSTEE OF THE FIREFIGHTERS' INSURANCE FUND OF CITY OF ROCHESTER, CITY OF ROCHESTER, FIRE DEPARTMENT OF CITY OF ROCHESTER, FIREFIGHTERS' INSURANCE FUND OF CITY OF ROCHESTER, AND ROCHESTER FIREFIGHTERS BENEVOLENT ASSOCIATION, DEFENDANTS-APPELLANTS.
(APPEAL NO. 3.)

THOMAS S. RICHARDS, CORPORATION COUNSEL, ROCHESTER (JOHN M. CAMPOLIETO OF COUNSEL), FOR DEFENDANTS-APPELLANTS.

CULLEY, MARKS, TANENBAUM & PEZZULO, LLP, ROCHESTER (GLENN E. PEZZULO OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Monroe County (William P. Polito, J.), entered April 26, 2010. The order awarded plaintiffs judgment in the amount of \$3,635,321.80, including investment interest income of \$428,446.83.

It is hereby ORDERED that the order so appealed from is

unanimously affirmed without costs.

Same Memorandum as in *Montesano v Madison* ([appeal No. 1] ____
AD3d ____ [Feb. 18, 2011]).

Entered: February 18, 2011

Patricia L. Morgan
Clerk of the Court