

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

1410

CA 15-00305

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, WHALEN, AND DEJOSEPH, JJ.

RALPH MISSELL, PLAINTIFF-APPELLANT,

V

ORDER

ASIA FOOD MARKET, INC., HANSON AGGREGATES, INC.,
AND HANSON AGGREGATES, NEW YORK, INC.,
DEFENDANTS-RESPONDENTS.

ASIA FOOD MARKET, INC., THIRD-PARTY PLAINTIFF,

V

EXCELL HVAC & APPLIANCE SERVICES, INC.,
THIRD-PARTY DEFENDANT-RESPONDENT.

DAVIDSON FINK LLP, ROCHESTER (ANDREW M. BURNS OF COUNSEL), FOR
PLAINTIFF-APPELLANT.

OSBORN, REED & BURKE, LLP, ROCHESTER (JEFFREY P. DIPALMA OF COUNSEL),
FOR DEFENDANT-RESPONDENT ASIA FOOD MARKET, INC.

BARCLAY DAMON, LLP, ROCHESTER (PAUL A. SANDERS OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS HANSON AGGREGATES, INC. AND HANSON AGGREGATES,
NEW YORK, INC.

WOODS OVIATT GILMAN LLP, ROCHESTER (ROBERT D. HOOKS OF COUNSEL), FOR
THIRD-PARTY DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Monroe County (Thomas A. Stander, J.), entered November 26, 2014. The order granted the motions of defendants for summary judgment dismissing the amended complaint and dismissed the amended complaint and the third-party complaint.

Now, upon the stipulation of discontinuance signed by the attorneys for the parties on December 2 and 3, 2015, and January 22, and 25, 2016, and filed in the Monroe County Clerk's Office on January 27, 2016,

It is hereby ORDERED that said appeal is unanimously dismissed without costs upon stipulation.

Entered: August 17, 2016

Frances E. Cafarell
Clerk of the Court