

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

1304

CA 11-00396

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, LINDLEY, AND SCONIERS, JJ.

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THOMAS JOHNSON, INC.,  
PLAINTIFF-APPELLANT-RESPONDENT,

V

ORDER

THE STATE INSURANCE FUND,  
DEFENDANT-RESPONDENT-APPELLANT.

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SLIWA & LANE, BUFFALO (KEVIN A. LANE OF COUNSEL), FOR  
PLAINTIFF-APPELLANT-RESPONDENT.

HERZFELD & RUBIN, P.C., NEW YORK CITY (DAVID B. HAMM OF COUNSEL), FOR  
DEFENDANT-RESPONDENT-APPELLANT.

PHILLIPS LYTLE LLP, BUFFALO (WILLIAM D. CHRIST OF COUNSEL), FOR NON-  
PARTY MOVANTS SEVENSON ENVIRONMENTAL SERVICES, INC. AND PHILLIPS  
LYTLE, LLP.

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Appeal and cross appeal from an order of the Supreme Court,  
Niagara County (Ralph A. Boniello, III, J.), entered April 20, 2010.  
The order, inter alia, granted the motion of defendant for summary  
judgment and denied the cross motion of plaintiff for summary  
judgment.

Now, upon reading and filing the stipulation discontinuing  
appeals signed by the attorneys for the parties on September 13, 2011,

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

Entered: December 23, 2011

Frances E. Cafarell  
Clerk of the Court