

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

1315

CA 15-00178

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

COMPTROLLER OF STATE OF NEW YORK, AS TRUSTEE
FOR THE NEW YORK STATE COMMON RETIREMENT FUND,
PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

LEVEL ACRES LLC, DEFENDANT-RESPONDENT,
ET AL., DEFENDANTS.
(APPEAL NO. 2.)

MCNAMEE, LOCHNER, TITUS & WILLIAMS, P.C., ALBANY (FRANCIS J. SMITH OF
COUNSEL), FOR PLAINTIFF-APPELLANT.

PEKAREK LAW GROUP, P.C., WELLSVILLE (EDWARD PEKAREK OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Allegany County
(Thomas P. Brown, A.J.), entered November 6, 2014. The order denied
the motion of plaintiff for summary judgment.

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

Same memorandum as in *Comptroller of State of New York v Level
Acres LLC* ([appeal No. 1] ___ AD3d ___ [Dec. 31, 2015]).

Entered: December 31, 2015

Frances E. Cafarell
Clerk of the Court