

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

139

**CA 19-00229**

PRESENT: CENTRA, J.P., CARNI, LINDLEY, AND NEMOYER, JJ.

---

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, ASSERTING CLAIMS IN ITS OWN RIGHT, AND AS THE ASSIGNEE AND REAL PROPERTY IN INTEREST OF THE CLAIMS OF DIPIZIO CONSTRUCTION COMPANY, INC., PLAINTIFF-PETITIONER,

V

ORDER

ERIE CANAL HARBOR DEVELOPMENT CORPORATION, DEFENDANT-RESPONDENT-RESPONDENT.

-----  
DIPIZIO CONSTRUCTION COMPANY, INC., NONPARTY APPELLANT.

---

LAW OFFICES OF DANIEL W. ISAACS, PLLC, EAST ROCKAWAY (DANIEL W. ISAACS OF COUNSEL), FOR NONPARTY APPELLANT.

PHILLIPS LYTTLE LLP, BUFFALO (ANDREW P. DEVINE OF COUNSEL), FOR DEFENDANT-RESPONDENT-RESPONDENT.

-----  
Appeal from an order of the Supreme Court, Erie County (Henry J. Nowak, J.), entered January 29, 2019. The order denied the motion of nonparty DiPizio Construction Company, Inc. seeking to intervene.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: January 31, 2020

Mark W. Bennett  
Clerk of the Court