

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

**444**

**CA 12-00797**

PRESENT: CENTRA, J.P., FAHEY, CARNI, WHALEN, AND MARTOCHE, JJ.

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BRETT BELLRENG, PLAINTIFF,

V

MEMORANDUM AND ORDER

SICOLI & MASSARO, INC., ET AL., DEFENDANTS.

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SICOLI & MASSARO, INC., THIRD-PARTY PLAINTIFF,

V

GUARD CONSTRUCTION & CONTRACTING, CORP.,  
THIRD-PARTY DEFENDANT.

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GUARD CONTRACTING CORP., ALSO KNOWN AS GUARD  
CONSTRUCTION & CONTRACTING, CORP., FOURTH-PARTY  
PLAINTIFF-APPELLANT,

V

INNOVATIVE INSULATED SYSTEMS, INC., ALSO KNOWN  
AS INNOVATIVE INSULATION INC., FOURTH-PARTY  
DEFENDANT-RESPONDENT.  
(APPEAL NO. 1.)

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GOLDBERG SEGALLA LLP, BUFFALO (BRIAN R. BIGGIE OF COUNSEL), FOR  
FOURTH-PARTY PLAINTIFF-APPELLANT.

DAMON MOREY LLP, BUFFALO (HEDWIG M. AULETTA OF COUNSEL), FOR  
FOURTH-PARTY DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Niagara County (Ralph A. Boniello, III, J.), entered November 30, 2011. The order denied the motion of Guard Contracting Corp., also known as Guard Construction & Contracting, Corp. for partial summary judgment on the contractual indemnification cause of action in its fourth-party complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Same Memorandum as in *Bellreng v Sicoli & Massaro, Inc.* ([appeal No. 2] \_\_\_ AD3d \_\_\_ [July 5, 2013]).

Entered: July 5, 2013

Frances E. Cafarell  
Clerk of the Court