

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

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CA 15-01920

PRESENT: SMITH, J.P., CARNI, NEMOYER, CURRAN, AND TROUTMAN, JJ.

TIME CAP DEVELOPMENT CORP., PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

COLONY INSURANCE COMPANY, DEFENDANT-APPELLANT,
ET AL., DEFENDANT.

COLONY INSURANCE COMPANY, THIRD-PARTY
PLAINTIFF-APPELLANT,

V

CINCINNATI INSURANCE COMPANY, THIRD-PARTY
DEFENDANT-RESPONDENT.
(APPEAL NO. 1.)

MELITO & ADOLFSEN P.C., NEW YORK CITY (S. DWIGHT STEPHENS OF COUNSEL),
FOR DEFENDANT-APPELLANT AND THIRD-PARTY PLAINTIFF-APPELLANT.

SUGARMAN LAW FIRM, LLP, SYRACUSE (KEVIN R. VANDUSER OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

RIVKIN RADLER LLP, UNIONDALE (FRANK MISITI OF COUNSEL), FOR
THIRD-PARTY DEFENDANT-RESPONDENT.

Appeal from an order and judgment (one paper) of the Supreme Court, Onondaga County (James P. Murphy, J.), entered July 21, 2015. The order and judgment, among other things, denied the cross motion of defendant-third-party plaintiff seeking a declaration that third-party defendant is a coinsurer for plaintiff on a 50/50 basis in the underlying action.

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

Same memorandum as in *Time Cap Dev. Corp. v Colony Ins. Co.* ([appeal No. 2] ___ AD3d ___ [Mar. 31, 2017]).

Entered: March 31, 2017

Frances E. Cafarell
Clerk of the Court