

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

**1442**

**CA 17-00478**

PRESENT: PERADOTTO, J.P., CARNI, DEJOSEPH, CURRAN, AND WINSLOW, JJ.

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FRANCIS X. SMITH AND CHERYL SMITH,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

VILLAGE OF ARCADE AND ARCADE FIRE  
DEPARTMENT, INC., ALSO KNOWN AS VILLAGE OF  
ARCADE FIRE DEPARTMENT, DEFENDANTS-RESPONDENTS,  
DONALD J. SAULTER, JR., DEFENDANT-APPELLANT,  
ET AL., DEFENDANT.  
(APPEAL NO. 2.)

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KENNEY SHELTON LIPTAK NOWAK, LLP, BUFFALO (AALOK J. KARAMBELKAR OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

BRADY & SWENSON, P.C., SALAMANCA (MATTHEW R. SWENSON OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS.

LIPPMAN O'CONNOR, BUFFALO (ROBERT M. LIPPMAN OF COUNSEL), FOR  
DEFENDANTS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Wyoming County  
(Michael M. Mohun, A.J.), entered February 2, 2017. The order, among  
other things, denied in part the motion of defendant Donald J.  
Saulter, Jr. for a determination that defendant Village of Arcade is  
obligated to indemnify him and pay for the costs of his defense.

Now, upon the stipulations of discontinuance signed by the  
attorneys for the parties on February 16 and June 23, 2017, and filed  
in the Wyoming County Clerk's Office on April 28 and July 24, 2017,

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

Entered: December 22, 2017

Mark W. Bennett  
Clerk of the Court