

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

**624**

**CA 13-00018**

PRESENT: SCUDDER, P.J., PERADOTTO, LINDLEY, SCONIERS, AND WHALEN, JJ.

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CHASTITY N. PRESNELL, PLAINTIFF-RESPONDENT,

V

ORDER

NEW YORK CENTRAL MUTUAL INSURANCE COMPANY,  
DEFENDANT-APPELLANT.

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BAXTER SMITH & SHAPIRO, P.C., WEST SENECA (LOUIS B. DINGELDEY, JR., OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

CELLINO & BARNES, P.C., BUFFALO (ELLEN B. STURM OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Niagara County  
(Matthew J. Murphy, III, A.J.), entered April 4, 2012. The order  
denied the motion of defendant to dismiss plaintiff's breach of  
contract claim.

Now, upon reading and filing the stipulation of discontinuance  
signed by the attorneys for the parties,

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

Entered: June 7, 2013

Frances E. Cafarell  
Clerk of the Court