

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

956

CA 16-02275

PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CARNI, JJ.

CAYSEA CONTRACTING CORP., PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

MASSA CONSTRUCTION, INC., DEFENDANT-APPELLANT,
INTERNATIONAL FIDELITY INSURANCE, AND DUNDEE
CENTRAL SCHOOL DISTRICT, DEFENDANTS.

SHEATS & BAILEY, PLLC, BREWERTON (JASON B. BAILEY OF COUNSEL), FOR
DEFENDANT-APPELLANT.

LIPPES MATHIAS WEXLER FRIEDMAN LLP, BUFFALO (MARK C. DAVIS OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Ontario County
(Matthew A. Rosenbaum, J.), entered October 3, 2016. The order denied
the motion of defendants Massa Construction, Inc., and International
Fidelity Insurance seeking to dismiss plaintiff's complaint as against
them.

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

Memorandum: We affirm for reasons stated in the decision at
Supreme Court. We write only to note that defendant International
Fidelity Insurance did not take an appeal from the order (see CPLR
5515 [1]) and, therefore, any contentions raised by it are beyond our
review (see *Hecht v City of New York*, 60 NY2d 57, 61; *Matter of
Sheldon v Jaroszynski*, 142 AD3d 762, 762-763).

Entered: September 29, 2017

Mark W. Bennett
Clerk of the Court