

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

386.1

CA 17-01309

PRESENT: CENTRA, J.P., CARNI, DEJOSEPH, TROUTMAN, AND WINSLOW, JJ.

SAMUEL, SON & CO., INC.,
PLAINTIFF-APPELLANT-RESPONDENT,

V

ORDER

THOMAS F. CELA AND ALL-STATE DIVERSIFIED
PRODUCTS, INC.,
DEFENDANTS-RESPONDENTS-APPELLANTS.

DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP, BUFFALO (HOWARD E. BERGER OF
COUNSEL), FOR PLAINTIFF-APPELLANT-RESPONDENT.

LYNN D'ELIA TEMES & STANCZYK, SYRACUSE (DAVID C. TEMES OF COUNSEL),
FOR DEFENDANTS-RESPONDENTS-APPELLANTS.

Appeal and cross appeal from an order of the Supreme Court, Erie County (Henry J. Nowak, Jr., J.), entered January 31, 2017. The order denied plaintiff's motion for partial summary judgment and denied defendants' cross motion for summary judgment dismissing the amended complaint or alternatively, for leave to amend their answer to the amended complaint.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties in March 2018,

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

Entered: August 22, 2018

Mark W. Bennett
Clerk of the Court