

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

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CA 18-01591

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

BROADWAY WAREHOUSE CO., PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

BROOKS C. ANDERSON, DEFENDANT-RESPONDENT.

ROACH, LENNON & BROWN, PLLC, BUFFALO (J. MICHAEL LENNON OF COUNSEL),
FOR PLAINTIFF-APPELLANT.

JUSTIN S. WHITE, WILLIAMSVILLE, FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Deborah A. Chimes, J.), entered April 16, 2018. The order granted the motion of defendant to dismiss the complaint.

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

Memorandum: We affirm for the reason stated at Supreme Court. We add only that, although we agree with plaintiff that defendant has mischaracterized plaintiff's claim as one to recover collection costs in enforcing an earlier judgment against defendant, any mischaracterization of plaintiff's claim does not warrant a different result.

Entered: May 3, 2019

Mark W. Bennett
Clerk of the Court