

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

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CA 19-01582

PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, AND WINSLOW, JJ.

IN THE MATTER OF TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA, ASSERTING CLAIMS IN ITS OWN
RIGHT, AND AS THE ASSIGNEE AND REAL PARTY IN
INTEREST OF THE CLAIMS OF DIPIZIO CONSTRUCTION
COMPANY, INC., PLAINTIFF-PETITIONER-APPELLANT,

V

ORDER

ERIE CANAL HARBOR DEVELOPMENT CORPORATION,
DEFENDANT-RESPONDENT-RESPONDENT.

CHIESA SHAHINIAN & GIANTOMASI PC, NEW YORK CITY (ADAM P. FRIEDMAN OF
COUNSEL), FOR PLAINTIFF-PETITIONER-APPELLANT.

PHILLIPS LYTTLE LLP, BUFFALO (WILLIAM J. BRENNAN OF COUNSEL), FOR
DEFENDANT-RESPONDENT-RESPONDENT.

COUCH WHITE, LLP, ALBANY (JOEL M. HOWARD, III, OF COUNSEL), FOR
ASSOCIATED GENERAL CONTRACTORS OF NYS, LLC, THE BUILDING CONTRACTORS
ASSOCIATION OF WESTCHESTER & THE MID-HUDSON REGION, INC., THE
CONSTRUCTION INDUSTRY COUNCIL OF WESTCHESTER & HUDSON VALLEY, INC.,
BUILDING INDUSTRY EMPLOYEES OF NEW YORK STATE, SYRACUSE BUILDERS
EXCHANGE, INC., BUILDERS EXCHANGE OF ROCHESTER, EASTERN CONTRACTOR'S
ASSOCIATION, INC., AND NORTHEASTER SUBCONTRACTORS ASSOCIATION, AMICI
CURIAE.

Appeal from an order of the Supreme Court, Erie County (Henry J.
Nowak, J.), entered August 16, 2019. The order granted plaintiff-
petitioner's motion for leave to reargue, and upon reargument, adhered
to a prior order granting defendant-respondent's motion for partial
summary judgment.

It is hereby ORDERED that the order so appealed from is
unanimously affirmed without costs for reasons stated in the decision
at Supreme Court.

Entered: February 5, 2021

Mark W. Bennett
Clerk of the Court