

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

**1093**

**CA 20-01409**

PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, CURRAN, AND BANNISTER, JJ.

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MICHAEL ROYSTER, PLAINTIFF-RESPONDENT,

V

ORDER

BREAKWATERS TOWNHOMES ASSOCIATION OF BUFFALO, INC.,  
DEFENDANT-APPELLANT.  
(APPEAL NO. 1.)

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PILLINGER MILLER TARALLO, LLP, SYRACUSE (JACQUELINE R. GARREN OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

MARSH ZILLER LLP, BUFFALO (LINDA MARSH OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Mark A. Montour, J.), entered October 20, 2020. The order denied defendant's motion for leave to file its jury demand nunc pro tunc.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on December 17, 2021,

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

Entered: January 28, 2022

Ann Dillon Flynn  
Clerk of the Court