

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

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CA 22-01602

PRESENT: WHALEN, P.J., PERADOTTO, BANNISTER, MONTOUR, AND GREENWOOD, JJ.

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ROBERT T. BURNETT, PLAINTIFF-RESPONDENT,

V

ORDER

DESTINI ALLEN, DEFENDANT,  
BRIAN J. SMITH AND J&L JANITORIAL SERVICES, INC.,  
DOING BUSINESS AS K&K JANITORIAL SERVICE,  
DEFENDANTS-APPELLANTS.  
(APPEAL NO. 2.)

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SMITH, SOVIK, KENDRICK & SUGNET, P.C., WILLIAMSVILLE (ALAN J. BEDENKO OF  
COUNSEL), FOR DEFENDANTS-APPELLANTS.

ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC, BUFFALO (ANTHONY IACONO OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Lynn W. Keane, J.), entered October 4, 2022. The order denied the motion of defendants Brian J. Smith and J&L Janitorial Services, Inc., doing business as K&K Janitorial Service, for leave to reargue.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Empire Ins. Co. v Food City*, 167 AD2d 983, 984 [4th Dept 1984]).

Entered: July 28, 2023

Ann Dillon Flynn  
Clerk of the Court