

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

605

CA 23-00234

PRESENT: WHALEN, P.J., CURRAN, MONTOUR, OGDEN, AND DELCONTE, JJ.

HOWARD WINTERMUTE, PLAINTIFF-RESPONDENT,

V

ORDER

PALONE ENTERPRISES, LLC, DEFENDANT-APPELLANT,
ET AL., DEFENDANTS.

BARCLAY DAMON LLP, ROCHESTER (DAVID M. FULVIO OF COUNSEL), FOR
DEFENDANT-APPELLANT.

LAW OFFICES OF KENNETH HILLER, PLLC, AMHERST (TIMOTHY E. HILLER OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Seneca County (Barry L. Porsch, A.J.), entered August 17, 2022. The order, insofar as appealed from, denied that part of the motion of defendants seeking summary judgment dismissing the complaint against defendant Palone Enterprises, LLC.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on September 26 and November 13, 2023,

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

Entered: February 2, 2024

Ann Dillon Flynn
Clerk of the Court