

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

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**CA 24-01429**

PRESENT: BANNISTER, J.P., MONTOUR, SMITH, NOWAK, AND DELCONTE, JJ.

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KATHRYN WILSMAN, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

BENDERSON DEVELOPMENT COMPANY, LLC,  
TRANCOM LLC, TRANCOM-A, LLC, TRANCOM-B, LLC,  
DEFENDANTS-RESPONDENTS,  
ACCADIA SITE CONTRACTING, INC., DEFENDANT-APPELLANT,  
ET AL., DEFENDANT.  
(APPEAL NO. 1.)

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ERNSTROM & DRESTE, LLP, ROCHESTER (MICHAEL F. HIGGINS OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

KENNEY SHELTON LIPTAK NOWAK LLP, BUFFALO (BRENT C. SEYMOUR OF  
COUNSEL), FOR DEFENDANTS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (Catherine R. Nugent Panepinto, J.), dated August 27, 2024, in a personal injury action. The order, among other things, denied the motion of defendant Accadia Site Contracting, Inc. for summary judgment.

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

Same memorandum as in *Wilsman v Benderson Dev. Co., LLC* ([appeal No. 2] – AD3d – [Mar. 20, 2026] [4th Dept 2026]).

Entered: March 20, 2026

Ann Dillon Flynn  
Clerk of the Court