

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

**845**

**CA 19-01255**

PRESENT: WHALEN, P.J., SMITH, CARNI, CURRAN, AND DEJOSEPH, JJ.

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BERNARD A. UNGER, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

MICHAEL A. GANCI, DEFENDANT-RESPONDENT.  
(APPEAL NO. 1.)

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LAW OFFICE OF GARY R. EBERSOLE, GRAND ISLAND (STEPHEN C. HALPERN OF COUNSEL), FOR PLAINTIFF-APPELLANT.

GROSS SHUMAN, P.C., BUFFALO (B. KEVIN BURKE, JR., OF COUNSEL), FOR DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Mark A. Montour, J.), entered May 6, 2019. The order determined that defendant is entitled to judgment on his counterclaims for breach of contract and rescission.

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

Same memorandum as in *Unger v Ganci* ([appeal No. 2] – AD3d – [Dec. 23, 2021] [4th Dept 2021]).

Entered: December 23, 2021

Ann Dillon Flynn  
Clerk of the Court