

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

1280

CA 14-02236

PRESENT: SCUDDER, P.J., CENTRA, LINDLEY, VALENTINO, AND WHALEN, JJ.

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DIPIZIO CONSTRUCTION COMPANY, INC.,  
PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

ERIE CANAL HARBOR DEVELOPMENT CORPORATION,  
DEFENDANT-RESPONDENT.  
(APPEAL NO. 1.)

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BARCLAY DAMON, LLP, BUFFALO (MICHAEL E. FERDMAN OF COUNSEL), FOR  
PLAINTIFF-APPELLANT.

THE REDDY LAW FIRM, LLC, BUFFALO (PRATHIMA REDDY OF COUNSEL), AND  
PHILLIPS LYTTLE LLP, FOR DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered April 3, 2014. The order denied plaintiff's motion for summary judgment and, upon searching the record, granted summary judgment to defendant and dismissed the complaint.

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

Same memorandum as in *DiPizio Constr. Co., Inc. v Erie Canal Harbor Dev. Corp.* ([appeal No. 3] \_\_\_ AD3d \_\_\_ [Dec. 23, 2015]).

Entered: December 23, 2015

Frances E. Cafarell  
Clerk of the Court