

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

**977**

**CA 17-00238**

PRESENT: SMITH, J.P., DEJOSEPH, CURRAN, TROUTMAN, AND WINSLOW, JJ.

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BRIGHAM SMITH, PLAINTIFF-RESPONDENT,

V

ORDER

COUNTY OF ONONDAGA AND C.O. FALTER  
CONSTRUCTION CORP., DEFENDANTS-APPELLANTS.

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RUPP BAASE PFALZGRAF CUNNINGHAM LLC, ROCHESTER (MATTHEW A. LENHARD OF  
COUNSEL), FOR DEFENDANTS-APPELLANTS.

GREENE & REID, PLLC, SYRACUSE (JEFFREY G. POMEROY OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Onondaga County (Hugh A. Gilbert, J.), entered June 21, 2016. The order, insofar as appealed from, granted the motion of plaintiff for partial summary judgment on the issue of liability pursuant to Labor Law § 240 (1) and denied in part the cross motion of defendants for summary judgment.

Now, upon the stipulation of discontinuance signed by the attorneys for the parties on May 30, 2017, and filed in the Onondaga County Clerk's Office on June 14, 2017,

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

Entered: September 29, 2017

Mark W. Bennett  
Clerk of the Court