

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

1070

CA 10-00873

PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, SCONIERS, AND PINE, JJ.

JOHN R. SHERK, PLAINTIFF-APPELLANT,

V

ORDER

LEHIGH CONSTRUCTION GROUP, INC., RIGHTEOUS
BABE RECORDS, INC., RIGHTEOUS BABE MUSIC,
INC., 341 DELAWARE, INC., 341 DELAWARE
LENDER, LLC, ASBURY DEVELOPMENT, L.P., ASBURY
DEVELOPMENT, LLC, ASBURY MASTER TENANT, LLC,
CITY OF BUFFALO, AND BUFFALO RENEWAL AGENCY,
DEFENDANTS-RESPONDENTS.

LEHIGH CONSTRUCTION GROUP, INC., THIRD-PARTY
PLAINTIFF-RESPONDENT,

V

LANCET-ARCH, INC., THIRD-PARTY
DEFENDANT-RESPONDENT.

GROSS, SHUMAN, BRIZDLE & GILFILLAN, P.C., BUFFALO (HOWARD B. COHEN OF
COUNSEL), FOR PLAINTIFF-APPELLANT.

BROWN & KELLY, LLP, BUFFALO (DONALD B. EPPERS OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS AND THIRD-PARTY PLAINTIFF-RESPONDENT.

FELDMAN KIEFFER, LLP, BUFFALO (ADAM C. FERRANDINO OF COUNSEL), FOR
THIRD-PARTY DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Timothy
J. Drury, J.), entered November 13, 2009 in a personal injury action.
The order, insofar as appealed from, denied the motion of plaintiff
for partial summary judgment pursuant to Labor Law § 240 (1).

Now, upon reading and filing the stipulation of discontinuance
signed by the attorneys for the parties on February 22, 2011,

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

All concur except PINE, J., who is not participating.

Entered: March 25, 2011

Patricia L. Morgan
Clerk of the Court