

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

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**CA 23-00498**

PRESENT: SMITH, J.P., BANNISTER, MONTOUR, GREENWOOD, AND KEANE, JJ.

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ERIE INSURANCE COMPANY, AS SUBROGEE OF  
MAC'S PIZZERIA & GRILL, CORP., ET AL.,  
PLAINTIFF-APPELLANT,

V

ORDER

CHILDREN'S PALACE CHILDCARE CENTER, INC.,  
DEFENDANT-RESPONDENT,  
DELL, INC., AND DELL, INC., DOING BUSINESS  
AS DELL COMPUTERS, INC., DEFENDANTS.  
(APPEAL NO. 2.)

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RUPP PFALZGRAF LLC, BUFFALO (BRANDON SNYDER OF COUNSEL), FOR  
PLAINTIFF-APPELLANT.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (PATRICK J. MACKEY OF  
COUNSEL), FOR DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Monroe County  
(Christopher S. Ciaccio, A.J.), entered March 2, 2023. The order  
granted the motion of defendant Children's Palace Childcare Center,  
Inc. for summary judgment.

It is hereby ORDERED that the order so appealed from is  
unanimously affirmed without costs for reasons stated in the decision  
at Supreme Court.

Entered: November 15, 2024

Ann Dillon Flynn  
Clerk of the Court