

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

1006

CA 17-00232

PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, NEMOYER, AND CURRAN, JJ.

---

TRIFI FOODS, INC., PLAINTIFF-RESPONDENT,

V

ORDER

M.W.S. ENTERPRISES, INC., DEFENDANT-APPELLANT.

---

WEBSTER SZANYI LLP, BUFFALO (D. CHARLES ROBERTS, JR., OF COUNSEL), FOR DEFENDANT-APPELLANT.

GETMAN BIRYLA LLP, BUFFALO (RICHARD J. BIRYLA OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

---

Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered May 9, 2016. The order denied the motion of defendant to dismiss the second cause of action of the amended complaint.

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