

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

830

**CA 17-01010**

PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, AND WINSLOW, JJ.

---

ALFRED E. EASTON, JR., AND JANET EASTON,  
PLAINTIFFS-APPELLANTS,

V

ORDER

M.A. MORTENSON COMPANY, MODERN MOSAIC LIMITED  
AND HARBORCENTER DEVELOPMENT, LLC,  
DEFENDANTS-RESPONDENTS.

-----  
M.A. MORTENSON COMPANY, ET AL.,  
THIRD-PARTY PLAINTIFFS,

V

PRECAST SERVICES INC., THIRD-PARTY  
DEFENDANT-RESPONDENT.  
(APPEAL NO. 2.)

---

MAXWELL MURPHY, LLC, BUFFALO (JOHN F. MAXWELL OF COUNSEL), FOR  
PLAINTIFFS-APPELLANTS.

HURWITZ & FINE, P.C., BUFFALO (DAVID R. ADAMS OF COUNSEL), FOR  
DEFENDANTS-RESPONDENTS AND THIRD-PARTY PLAINTIFFS.

RUPP BAASE PFALZGRAF CUNNINGHAM LLC, BUFFALO (CORY J. WEBER OF  
COUNSEL), FOR THIRD-PARTY DEFENDANT-RESPONDENT.

-----  
Appeal from an order of the Supreme Court, Erie County (Mark J. Grisanti, A.J.), entered April 3, 2017. The order, inter alia, denied the motion of plaintiffs for partial summary judgment on liability.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on May 22, 2018,

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

Entered: June 8, 2018

Mark W. Bennett  
Clerk of the Court