

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

830

CA 22-00095

PRESENT: WHALEN, P.J., SMITH, LINDLEY, NEMOYER, AND WINSLOW, JJ.

---

LINCOLN LIFE & ANNUITY COMPANY OF NEW YORK,  
PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

CAMI WITTMAYER, ET AL., DEFENDANTS,  
MARIA R. BAUER, LAWRENCE J. ADYMY, JR.,  
DEFENDANTS-APPELLANTS,  
LINCOLN FINANCIAL ADVISORS CORPORATION AND  
LEE V. STADLER, DEFENDANTS-RESPONDENTS.  
(APPEAL NO. 2.)

---

THE TARANTINO LAW FIRM, LLP, BUFFALO (ANN M. CAMPBELL OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS.

BRADLEY ARANT BOULT CUMMINGS, LLP, CHARLOTTE, NORTH CAROLINA (C.  
BAILEY KING, JR., OF THE NORTH CAROLINA BAR, ADMITTED PRO HAC VICE, OF  
COUNSEL), AND GOLDBERG SEGALLA LLP, BUFFALO, FOR PLAINTIFF-RESPONDENT  
AND DEFENDANTS-RESPONDENTS.

---

Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered January 13, 2022. The order granted the motion of plaintiff and defendants Lincoln Financial Advisors Corporation and Lee V. Stadler insofar as it sought summary judgment dismissing the counterclaims of defendants Marie R. Bauer and Lawrence J. Adymy, Jr., against plaintiff.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by denying that part of the motion of plaintiff and defendants Lee V. Stadler and Lincoln Financial Advisors Corporation with respect to the negligence counterclaim insofar as asserted by defendant Maria R. Bauer and reinstating that counterclaim to that extent, and as modified the order is affirmed without costs.

Same memorandum as in *Lincoln Life & Annuity Co. of N.Y. v Wittmeyer* ([appeal No. 1] – AD3d – [Dec. 23, 2022] [4th Dept 2022]).

Entered: December 23, 2022

Ann Dillon Flynn  
Clerk of the Court