

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

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CA 22-00550

PRESENT: PERADOTTO, J.P., CURRAN, BANNISTER, AND MONTOUR, JJ.

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IN THE MATTER OF GLORIA BORRELLI, AS EXECUTOR OF  
THE ESTATE OF DANIEL J. THOMAS, DECEASED, AND  
DERIVATIVELY AS A SHAREHOLDER OF NEW YORK STATE  
FENCE CO., INC., PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

TOM THOMAS, INDIVIDUALLY AND AS DIRECTOR AND  
OFFICER OF NEW YORK STATE FENCE CO., INC., AND  
NEW YORK STATE FENCE CO., INC.,  
DEFENDANTS-RESPONDENTS.  
(APPEAL NO. 2.)

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PHILLIPS LYTTLE LLP, ROCHESTER (TARA M. WARD OF COUNSEL), FOR  
PLAINTIFF-APPELLANT.

ADAMS LECLAIR LLP, ROCHESTER (ANTHONY J. ADAMS, JR., OF COUNSEL), FOR  
DEFENDANTS-RESPONDENTS.

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Appeal from a judgment of the Supreme Court, Monroe County (J. Scott Odorisi, J.), entered March 28, 2022. The judgment dismissed the amended complaint.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Same memorandum as in *Matter of Borrelli v Thomas* ([appeal No. 1] - AD3d - [May 5, 2023] [4th Dept 2023]).

Entered: May 5, 2023

Ann Dillon Flynn  
Clerk of the Court