

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

437

CA 23-00798

PRESENT: LINDLEY, J.P., CURRAN, OGDEN, GREENWOOD, AND KEANE, JJ.

PAMELA RENFRO AND RENFRO-HERRALD HOSPITALITY, LLC,
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

ANGELA HERRALD, DAVID STEITZ AND
HERRALD-STEITZ PROPERTIES, LLC,
DEFENDANTS-APPELLANTS.

BOND, SCHOENECK & KING, PLLC, ROCHESTER (JEREMY M. SHER OF COUNSEL),
FOR DEFENDANTS-APPELLANTS.

MCCONVILLE, CONSIDINE, COOMAN & MORIN, P.C., ROCHESTER (KEVIN S.
COOMAN OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Monroe County (J. Scott Odorisi, J.), entered April 13, 2023. The order denied the motion of defendants for partial summary judgment.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by granting that part of defendants' motion for partial summary judgment on their tenth counterclaim to the extent it seeks a declaration that plaintiffs do not have an interest in the real property owned by defendant Herrald-Steitz Properties, LLC and granting judgment in favor of defendants as follows:

It is ADJUDGED and DECLARED that plaintiffs do not have an interest in the real property owned by defendant Herrald-Steitz Properties, LLC,

and as modified the order is affirmed without costs.

Memorandum: In this action alleging, inter alia, that defendants breached a purported joint venture agreement between the parties as well as their fiduciary duties as joint venturers, defendants appeal from an order that denied their motion for, inter alia, partial summary judgment seeking, inter alia, a declaration on their tenth counterclaim that plaintiffs have no interest in defendant Herrald-Steitz Properties, LLC (Properties LLC) or real property owned by Properties LLC. We modify the order by granting that part of defendants' motion with respect to their tenth counterclaim solely to the extent of declaring that plaintiffs do not have an interest in the real property owned by Properties LLC (*see Renfro v Herrald*, 206 AD3d

1573, 1574 [4th Dept 2022])). We otherwise affirm the order for reasons stated in the decision at Supreme Court.

Entered: July 3, 2024

Ann Dillon Flynn
Clerk of the Court