

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

1050.1

CA 23-01292

PRESENT: WHALEN, P.J., LINDLEY, MONTOUR, OGDEN, AND DELCONTE, JJ.

BRUCE D. SMITH, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

TRIPLE-O MECHANICAL, INC., AND LUKE GIANNONE,
DEFENDANTS-APPELLANTS.
(APPEAL NO. 1.)

UNDERBERG & KESSLER LLP, ROCHESTER (DAVID M. TANG OF COUNSEL), FOR
DEFENDANTS-APPELLANTS.

HODGSON RUSS LLP, BUFFALO (RYAN J. LUCINSKI OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Genesee County
(Timothy J. Walker, A.J.), entered June 30, 2023. The order granted
the motion of plaintiff to compel certain discovery and held in
abeyance defendants' cross-motion for summary judgment.

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

Same memorandum as in *Smith v Triple-O Mech., Inc.* ([appeal No.
2] – AD3d – [July 3, 2024] [4th Dept 2024]).

Entered: July 3, 2024

Ann Dillon Flynn
Clerk of the Court