

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

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**CA 16-00809**

PRESENT: CARNI, J.P., LINDLEY, NEMOYER, TROUTMAN, AND SCUDDER, JJ.

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LARRY E. BROWN, PLAINTIFF-RESPONDENT,

V

ORDER

BG THRUWAY, LLC, DDR CORP., DEFENDANTS-APPELLANTS,  
ET AL., DEFENDANTS.

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BARCLAY DAMON LLP, BUFFALO (PETER S. MARLETTE OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS.

BROWN CHIARI LLP, LANCASTER (TIMOTHY HUDSON OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Tracey A. Bannister, J.), entered February 9, 2016. The order, among other things, denied in part the motion of defendants BG Thruway, LLC and DDR Corp. for summary judgment dismissing plaintiff's complaint.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on November 14, 2016,

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

Entered: February 3, 2017

Frances E. Cafarell  
Clerk of the Court