

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

**1284/16**

**CA 16-00081**

PRESENT: WHALEN, P.J., SMITH, CARNI, DEJOSEPH, AND CURRAN, JJ.

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JEFFREY BURNS, PLAINTIFF-RESPONDENT,

V

ORDER

LECESSE CONSTRUCTION SERVICES, LLC, THE MILLS AT HIGH FALLS HOUSING DEVELOPMENT FUND COMPANY, INC., URBAN LEAGUE OF ROCHESTER, NY, INC., DEFENDANTS-APPELLANTS, ET AL., DEFENDANTS.

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LECESSE CONSTRUCTION SERVICES, LLC, THE MILLS AT HIGH FALLS HOUSING DEVELOPMENT FUND COMPANY, INC., AND URBAN LEAGUE OF ROCHESTER, NY, INC., THIRD-PARTY PLAINTIFFS-APPELLANTS,

V

JEFFREY W. BURNS, DOING BUSINESS AS BURNS FLOORING, THIRD-PARTY DEFENDANT-RESPONDENT.  
(APPEAL NO. 1.)

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BURDEN, GULISANO & HANSEN, LLC, BUFFALO (PHYLLIS A. HAFNER OF COUNSEL), FOR DEFENDANTS-APPELLANTS AND THIRD-PARTY PLAINTIFFS-APPELLANTS.

CELLINO & BARNES, P.C., ROCHESTER (K. JOHN WRIGHT OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

TREVETT CRISTO SALZER & ANDOLINA, P.C., ROCHESTER (MELANIE S. WOLK OF COUNSEL), FOR THIRD-PARTY DEFENDANT-RESPONDENT.

LIPPMAN O'CONNOR, BUFFALO (ROBERT H. FLYNN OF COUNSEL), FOR DEFENDANT U.S. CEILING CORP.

RUPP, BAASE, PFALZGRAF, CUNNINGHAM, ROCHESTER (MATTHEW A. LENHARD OF COUNSEL), FOR DEFENDANT DUKES PROPERTY DEVELOPMENT, LLC.

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Appeal from an order of the Supreme Court, Monroe County (J. Scott Odorisi, J.), entered January 12, 2015. The order, among other things, denied the cross motion of defendants/third-party plaintiffs Lecesse Construction Services, LLC, The Mills at High Falls Housing Development Fund Company, Inc., and Urban League of Rochester, NY, Inc., for summary judgment.

Now, upon reading and filing the stipulation withdrawing appeals signed by the attorneys for the parties on December 28, 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