

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

**757**

**CA 20-00008**

PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, LINDLEY, AND BANNISTER, JJ.

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ALBERT G. FRACCOLA, JR., INDIVIDUALLY AND AS 50% SHAREHOLDER, PRESIDENT AND DIRECTOR, COMMITTEEMAN OF ONE AND "CREDITOR" OF 1ST CHOICE REALTY, INC. IN OF THE PARTIES DISSOLUTION UNDER N.Y.S.B.C.L. SECS. 1005, 1006 AND 1007 AND AS "CREDITOR" AGAINST 1ST CHOICE REALTY, INC. AND ON BEHALF OF ALL OTHER CREDITORS AND STOCKHOLDERS IN A SIMILAR SITUATION AND WHO MAY COME IN CONTRIBUTE TO THE EXPENSE OF THIS ACTION, PLAINTIFF-APPELLANT,

V

ORDER

1ST CHOICE REALTY, INC., A DOMESTIC CORPORATION IN DISSOLUTION, ET AL., DEFENDANTS,  
CHAD CARSTENSEN, INDIVIDUALLY AND AS EXECUTOR UNDER THE ESTATE OF PHYLLIS FRACCOLA, ALSO KNOWN AS PHYLLIS S. FRACCOLA, DECEASED, FILE NO.: 2016-376; PHILLIP FRACCOLA, AS SUBSTITUTE EXECUTOR UNDER THE ESTATE OF PHYLLIS FRACCOLA ALSO KNOWN AS PHYLLIS S. FRACCOLA, DECEASED, FILE NO.: 2016-376, PHILLIP FRACCOLA AS TRUSTEE OF THE "SAPORITO IRREVOCABLE TRUST" AND PHILLIP FRACCOLA AS TRUSTEE OF THE PHYLLIS FRACCOLA TRUST, THE PHYLLIS FRACCOLA FAMILY TRUST; "SEPARATE SHARE TRUST FORMER BENEFICIARY OF ALAN FRACCOLA", AND PHILLIP FRACCOLA AS TRUSTEE OF THE "SEPARATE TRUST SHARE FORMER BENEFICIARY OF ALAN FRACCOLA", DEFENDANTS-RESPONDENTS.

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ALBERT G. FRACCOLA, JR., PLAINTIFF-APPELLANT PRO SE.

PETER M. HOBAICA, LLC, UTICA (PETER M. HOBAICA OF COUNSEL), FOR DEFENDANTS-RESPONDENTS.

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Appeal from an amended order of the Supreme Court, Oneida County (Bernadette T. Clark, J.), entered July 9, 2019. The amended order denied the motion of plaintiff for a default judgment.

It is hereby ORDERED that the amended order so appealed from is unanimously affirmed with costs for reasons stated in the decision at Supreme Court.

Entered: October 2, 2020

Mark W. Bennett  
Clerk of the Court