

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

689

CA 21-01158

PRESENT: LINDLEY, J.P., NEMOYER, CURRAN, WINSLOW, AND BANNISTER, JJ.

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ASSUNTA BARNEY, INDIVIDUALLY AND DOING BUSINESS  
AS ACTION TOP SOIL, PLAINTIFF-RESPONDENT,

V

ORDER

DRYDEN MUTUAL INSURANCE COMPANY,  
DEFENDANT-APPELLANT.

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RUPP BAASE PFALZGRAF CUNNINGHAM LLC, BUFFALO (BRANDON SNYDER OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

CERIO LAW OFFICES, PLLC, SYRACUSE (NATHANIEL V. RILEY OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Onondaga County  
(Gerard J. Neri, J.), entered July 12, 2021. The order denied  
defendant's motion to dismiss certain claims.

Now, upon reading and filing the stipulation of discontinuance  
signed by the attorneys for the parties on September 8, 2022,

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

Entered: September 30, 2022

Ann Dillon Flynn  
Clerk of the Court