

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

691

CA 21-01433

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

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IN THE MATTER OF EGATE-95, LLC,  
PETITIONER-APPELLANT,

V

ORDER

FITNESS INTERNATIONAL, LLC,  
RESPONDENT-RESPONDENT.  
(APPEAL NO. 1.)

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PHILLIPS LYTTLE LLP, BUFFALO (DAVID J. MCNAMARA OF COUNSEL), FOR  
PETITIONER-APPELLANT.

KLEHR HARRISON HARVEY BRANZBURG LLP, PHILADELPHIA, PENNSYLVANIA (A.  
GRANT PHELAN, OF THE PENNSYLVANIA BAR, ADMITTED PRO HAC VICE, OF  
COUNSEL), AND MAGAVERN MAGAVERN GRIMM LLP, BUFFALO, FOR  
RESPONDENT-RESPONDENT.

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Appeal from an order and judgment (one paper) of the Supreme  
Court, Erie County (Paul Wojtaszek, J.), entered October 4, 2021. The  
order and judgment, among other things, denied the petition.

It is hereby ORDERED that said appeal is unanimously dismissed  
without costs (*see Loafin' Tree Rest. v Pardi* [appeal No. 1], 162 AD2d  
985, 985 [4th Dept 1990]).

Entered: September 30, 2022

Ann Dillon Flynn  
Clerk of the Court