

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

704

CA 22-01463

PRESENT: SMITH, J.P., MONTOUR, GREENWOOD, NOWAK, AND DELCONTE, JJ.

ELLCOTTVILLE INN CONDOMINIUM ASSOCIATION,
PLAINTIFF-RESPONDENT,

V

ORDER

BRIAN D. KEMPISTY, DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

KENNEY SHELTON LIPTAK NOWAK LLP, BUFFALO (JUSTIN L. HENDRICKS OF
COUNSEL), FOR DEFENDANT-APPELLANT.

PETERS & MORIARTY, PC, ELLCOTTVILLE (KATHLEEN MORIARTY FLEMING OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Cattaraugus County Court (Ronald D. Ploetz, J.), entered July 14, 2022. The order granted plaintiff's motion for summary judgment in lieu of complaint.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (see *Hughes v Nussbaumer, Clarke & Velzy*, 140 AD2d 988, 988 [4th Dept 1988]; *Chase Manhattan Bank, N.A. v Roberts & Roberts*, 63 AD2d 566, 567 [1st Dept 1978]; see also CPLR 5501 [a] [1]).

Entered: November 17, 2023

Ann Dillon Flynn
Clerk of the Court