

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

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**CA 19-01198**

PRESENT: CENTRA, J.P., NEMOYER, TROUTMAN, WINSLOW, AND BANNISTER, JJ.

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THEODORE NALBONE AND JENNIFER NALBONE,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

VANDERBILT PROPERTIES, INC.,  
ET AL., DEFENDANTS.

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VANDERBILT PROPERTIES, INC., THIRD-PARTY  
PLAINTIFF,

V

CMC CONCRETE, LLC, THIRD-PARTY DEFENDANT,  
AND UNITED MATERIALS, THIRD-PARTY  
DEFENDANT-APPELLANT.

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GOLDBERG SEGALLA LLP, BUFFALO (CHRISTOPHER G. FLOREALE OF COUNSEL),  
FOR THIRD-PARTY DEFENDANT-APPELLANT.

VIOLA, CUMMINGS & LINDSAY, LLP, NIAGARA FALLS (MICHAEL J. SKONEY OF  
COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (Mark A. Montour, J.), entered June 4, 2019. The order granted the motion of plaintiffs for leave to amend the summons and complaint to assert a direct cause of action against third-party defendant United Materials.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Entered: April 24, 2020

Mark W. Bennett  
Clerk of the Court