

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

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**CA 22-00039**

PRESENT: WHALEN, P.J., SMITH, CURRAN, BANNISTER, AND OGDEN, JJ.

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MICHAEL LEE, ON BEHALF OF HIMSELF AND  
ALL OTHERS SIMILARLY SITUATED,  
PLAINTIFF-RESPONDENT,

V

ORDER

CANANDAIGUA NATIONAL BANK & TRUST,  
DEFENDANT-APPELLANT.

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NIXON PEABODY LLP, ROCHESTER (CAROLYN G. NUSSBAUM OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

CHERUNDOLO LAW FIRM, PLLC, SYRACUSE (DAVID H. TENNANT OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Monroe County (J. Scott Odorisi, J.), entered December 10, 2021. The order, insofar as appealed from, denied in part the motion of defendant to dismiss the complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: February 3, 2023

Ann Dillon Flynn  
Clerk of the Court