

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

726

CA 23-00009

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

DONALD HOLLER, PLAINTIFF,

V

MEMORANDUM AND ORDER

DOMINION ENERGY TRANSMISSION, INC., AND
LMC INDUSTRIAL CONTRACTORS, INC.,
DEFENDANTS-RESPONDENTS.

LMC INDUSTRIAL CONTRACTORS, INC., THIRD-PARTY
PLAINTIFF-RESPONDENT,

V

O'CONNELL ELECTRIC COMPANY, INC., THIRD-PARTY
DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

LAW OFFICES OF JOHN WALLACE, BUFFALO, MAURO LILLING NAPARTY LLP,
WOODBURY (SETH M. WEINBERG OF COUNSEL), FOR THIRD-PARTY
DEFENDANT-APPELLANT.

GORDON REES SCULLY MANSUKHANI, LLP, HARRISON (LYNN ABELSON LIEBMAN OF
COUNSEL), FOR DEFENDANT-RESPONDENT DOMINION ENERGY TRANSMISSION, INC.

RUPP PFALZGRAF LLC, ROCHESTER (KEVIN J. FEDERATION OF COUNSEL), FOR
THIRD-PARTY PLAINTIFF-RESPONDENT AND DEFENDANT-RESPONDENT LMC
INDUSTRIAL CONTRACTORS, INC.

Appeal from an order of the Supreme Court, Monroe County (Gail Donofrio, J.), entered December 2, 2022. The order, insofar as appealed from, denied that part of the motion of third-party defendant seeking leave to renew its opposition to the motions for partial summary judgment of defendant-third-party plaintiff LMC Industrial Contractors, Inc. and defendant Dominion Energy Transmission, Inc.

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

Same memorandum as in *Holler v Dominion Energy Transmission, Inc.* ([appeal No. 1] – AD3d – [Nov. 17, 2023] [4th Dept 2023]).

Entered: November 17, 2023

Ann Dillon Flynn
Clerk of the Court