

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

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**CA 23-00209**

PRESENT: WHALEN, P.J., BANNISTER, GREENWOOD, AND KEANE, JJ.

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MERCHANT CAPITAL, PLAINTIFF-RESPONDENT,

V

ORDER

RESURGENCE CALIFORNIA, LLC, DOING BUSINESS  
AS RESURGENCE CALIFORNIA, RESURGENCE CA, LLC,  
RESURGENCE BEHAVIORAL HEALTH, LLC, ADVANCED  
RECOVERY SOLUTIONS, LLC, PACIFIC MANOR  
RECOVERY, LLC, RESURGENCE TX, LLC, NEW START  
TREATMENT & RECOVERY CENTER, AND STEPHEN J.  
FENNELLY, DEFENDANTS-APPELLANTS.

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COLONNA COHEN LAW, PLLC, BROOKLYN (ASHLEE COLONNA COHEN OF COUNSEL),  
FOR DEFENDANTS-APPELLANTS.

BERKOVITCH & BOUSKILA, PLLC, POMONA (ARIEL BOUSKILA OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Ontario County (Craig J. Doran, J.), entered October 18, 2022. The order, among other things, granted plaintiff's motion for summary judgment and denied defendants' cross-motion to amend their answer.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on October 19, 2023,

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

Entered: February 2, 2024

Ann Dillon Flynn  
Clerk of the Court