

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH JUDICIAL DEPARTMENT

Neary v. St. Mary's Square Condominium Association

2026 NY Slip Op 03525 (N.Y. Ct. App. 2026) · No. CA 24-00467 · Decided June 5, 2026

SUMMARY

The New York Appellate Division, Fourth Department dismissed an appeal from an order denying a third-party defendant's motion for summary judgment in a condominium-related action. The appeal was dismissed without costs pursuant to the parties' stipulation of discontinuance.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Lindley, J.P.; Bannister, J.; Greenwood, J.; Nowak, J.; Keane, J.
JURISDICTION	New York Supreme Court, Appellate Division, Fourth Department
DECIDED	June 5, 2026
DOCKET	CA 24-00467
DISPOSITION	dismissed
PROCEDURAL POSTURE	Regan Lawncare and Landscaping, Inc. appealed from an order denying its motion for summary judgment dismissing the third-party complaint. The appeal was dismissed upon the parties' stipulation of discontinuance.
PRECEDENTIAL VALUE	published
PARTIES	Regan Lawncare and Landscaping, Inc., third-party defendant-appellant v. St. Mary's Square Condominium Association, third-party plaintiff-respondent, Beth Neary, plaintiff-respondent

TOPICS

- summary judgment
- appellate procedure
- civil procedure
- real estate

PRACTICE AREAS

- civil procedure
- appellate procedure
- real estate

QUESTIONS PRESENTED

1. Whether the appeal from the order denying third-party defendant's motion for summary judgment should be dismissed pursuant to the parties' stipulation of discontinuance.

HOLDINGS

1. The appeal was unanimously dismissed without costs upon the parties' stipulation of discontinuance.

KEY QUOTATIONS

*“It is hereby ORDERED that said appeal is unanimously dismissed without costs upon stipulation.” (*1)*

FACTUAL BACKGROUND

The underlying dispute involved Beth Neary, St. Mary's Square Condominium Association, and Regan Lawncare and Landscaping, Inc. The Association asserted a third-party complaint against Regan. Regan moved for summary judgment dismissing that third-party complaint, but Supreme Court, Erie County, denied the motion.

PROCEDURAL HISTORY

Beth Neary brought an action involving St. Mary's Square Condominium Association. The Association commenced a third-party action against Regan Lawncare and Landscaping, Inc. Supreme Court, Erie County, denied Regan's motion for summary judgment dismissing the third-party complaint. While the appeal was pending, the parties executed a stipulation of discontinuance, and the Appellate Division unanimously dismissed the appeal without costs.

DISPOSITION

dismissed