

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

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JONATHAN TROFFA and JOS. M. TROFFA	: Index No. 609510/2016
LANDSCAPE AND MASON SUPPLY, INC.,	:
	: Hon. Jerry Garguilo
Plaintiffs,	:
	: Motion Seq. Nos. 010 and 011
-against-	:
	: <b><u>NOTICE OF CROSS-MOTION</u></b>
JOSEPH M. TROFFA, LAURA J. TROFFA,	:
JOS. M. TROFFA MATERIALS CORPORATION,	:
NIMT ENTERPRISES, LLC, L.J.T. DEVELOPMENT	:
ENTERPRISES, INC., and JOS. M. TROFFA	:
LANDSCAPE AND MASON SUPPLY, INC.,	:
	:
Defendants.	:
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**PLEASE TAKE NOTICE**, that upon the Affirmation of Peter A. Mahler, dated April 12, 2022, the exhibits thereto, the Affidavit of Joseph M. Troffa, sworn to April 11, 2022, the exhibits thereto, the Affidavit of James E. Danowski, sworn to April 11, 2022, the Rule 19-a Counter-Statement, the accompanying Memorandum of Law, and upon all of the pleadings and prior proceedings, Defendants, by their attorneys, Farrell Fritz, P.C., will cross-move this Court, before the Hon. Jerry Garguilo, Commercial Part 48, Courtroom S-33, 400 Carleton Avenue, Central Islip, New York 11722, on May 18, 2022, at 9:30 a.m., or as soon thereafter as counsel may be heard, for an Order, pursuant to [CPLR 3212](#):

- (i) awarding Defendants summary judgment dismissing the one remaining claim in the Verified Amended Complaint (*see* [NYSCEF Doc. No. 26](#)), the Fourth Cause of Action, styled as a “Derivative Action,” in its entirety with prejudice;
- (ii) awarding such other and further relief as the Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to Stipulation so-ordered on March 18, 2022 and entered March 22, 2022 (*see* [NYSCEF Doc. No. 290](#)), papers in opposition to this cross-motion must be filed and served no later than May 3, 2022.

Dated: April 12, 2022

FARRELL FRITZ, P.C.

By: /s/ *Peter A. Mahler*

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TO: All Counsel of Record (By NYSCEF)