

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

387

CA 08-01659

PRESENT: HURLBUTT, J.P., MARTOCHE, FAHEY, CARNI, AND GORSKI, JJ.

DAVID CANAZZI, PLAINTIFF-RESPONDENT,

V

ORDER

CSX TRANSPORTATION, INC., DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

MAYER BROWN LLP, WASHINGTON, D.C. (JACK L. WILSON, OF THE WASHINGTON, D.C. AND MISSISSIPPI BARS, ADMITTED PRO HAC VICE, OF COUNSEL), AND ANSPACH MEEKS ELLENBERGER LLP, BUFFALO, FOR DEFENDANT-APPELLANT.

COLLINS, COLLINS & DONOGHUE, P.C., BUFFALO (JOHN F. COLLINS OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Timothy J. Drury, J.), entered February 7, 2008 in a personal injury action. The order granted plaintiff's motion, set aside the jury verdict in part, directed that judgment be entered in favor of plaintiff on the issue of causation, and granted a new trial on comparative negligence and damages.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (see *Pressley v DePalma*, 39 AD3d 732, 733; see also CPLR 5501 [a] [1], [2]).

Entered: April 24, 2009

Patricia L. Morgan
Deputy Clerk of the Court