

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

575

CA 08-02315

PRESENT: HURLBUTT, J.P., PERADOTTO, CARNI, GREEN, AND PINE, JJ.

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DAVID EVANS, SR., PLAINTIFF-RESPONDENT,

V

ORDER

JEFFREY A. STRICKLER, DEFENDANT-APPELLANT,  
ET AL., DEFENDANT.

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LAW OFFICES OF LAWRENCE M. RUBIN, BUFFALO (DESTIN C. SANTACROSE OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

CELLINO & BARNES, P.C., BUFFALO (JOHN W. LOONEY OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Timothy J. Drury, J.), entered June 3, 2008 in a personal injury action. The order denied the motion of defendant Jeffrey A. Strickler for summary judgment.

Now, upon the stipulation of discontinuance signed by the attorneys for the parties on January 21, 2009, and filed in the Erie County Clerk's Office on February 3, 2009,

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

Entered: April 24, 2009

Patricia L. Morgan  
Deputy Clerk of the Court