

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

1288

CA 09-00797

PRESENT: SCUDDER, P.J., MARTOCHE, SMITH, CARNI, AND GREEN, JJ.

BARBARA JANICKI, PLAINTIFF-RESPONDENT,

V

ORDER

REXFORD L. THOMAS, JR., M.D., DEFENDANT-APPELLANT.

ROACH, BROWN, MCCARTHY & GRUBER, P.C., BUFFALO (J. MARK GRUBER OF COUNSEL), FOR DEFENDANT-APPELLANT.

STAMM, REYNOLDS & STAMM, WILLIAMSVILLE (BRADLEY J. STAMM OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Joseph D. Mintz, J.), entered September 24, 2008 in a medical malpractice action. The order denied the motion of defendant for summary judgment.

Now, upon reading and filing the stipulation withdrawing appeal signed by the attorneys for the parties on August 24, 2009,

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

Entered: November 13, 2009

Patricia L. Morgan
Clerk of the Court