

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

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CA 09-01702

PRESENT: SCUDDER, P.J., CENTRA, CARNI, AND PINE, JJ.

MARY LOU ANDREOZZI, PLAINTIFF,

V

ORDER

TOPS MARKETS, LLC, BENDERSON DEVELOPMENT
COMPANY, INC., DEFENDANTS-APPELLANTS,
AND CHURCHILL CONTRACTING, INC.,
DEFENDANT-RESPONDENT.

KENNEY SHELTON LIPTAK NOWAK LLP, BUFFALO (NELSON E. SCHULE, JR., OF
COUNSEL), FOR DEFENDANTS-APPELLANTS.

OSBORN, REED & BURKE, LLP, ROCHESTER (JEFFREY P. DIPALMA OF COUNSEL),
FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Paula L. Feroletto, J.), entered August 27, 2008 in a personal injury action. The order granted the motion of defendant Churchill Contracting, Inc. for summary judgment and denied the cross motion of defendants Tops Markets, LLC and Benderson Development Company, Inc. for summary judgment.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties to the appeal on January 5 and 11, 2010,

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

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court