

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

**193**

**CA 09-01885**

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, GREEN, AND GORSKI, JJ.

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ELLIS CLARK WELLMAN, JR., PLAINTIFF-RESPONDENT,

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ORDER

RONALD V. AJELLO, DEFENDANT-APPELLANT,  
ET AL., DEFENDANT.  
(APPEAL NO. 1.)

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CALLI, CALLI & CULLY, UTICA (HERBERT J. CULLY OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

MCLANE, SMITH AND LASCURETTES, L.L.P., UTICA (STEVEN A. SMITH OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Oneida County (John W. Grow, J.), entered January 7, 2009 in an action pursuant to RPAPL article 15. The order, among other things, denied the motion of defendant Ronald V. Ajello for a directed verdict.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (see *Smith v Catholic Med. Ctr. of Brooklyn & Queens*, 155 AD2d 435; see also CPLR 5501 [a] [1]).

Entered: February 11, 2010

Patricia L. Morgan  
Clerk of the Court