

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

407

CA 09-00830

PRESENT: SCUDDER, P.J., SCONIERS, GREEN, AND GORSKI, JJ.

KARL S. SIENKIEWICZ, PLAINTIFF-APPELLANT,

V

ORDER

FLEMING CO., INC., DOING BUSINESS AS JUBILEE
FOODS, DEFENDANT-RESPONDENT.

ANDREWS, BERNSTEIN & MARANTO, LLP, BUFFALO (RICHARD A. NICOTRA OF
COUNSEL), FOR PLAINTIFF-APPELLANT.

COLUCCI & GALLAHER, P.C., BUFFALO (PAUL G. JOYCE OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (John A. Michalek, J.), entered July 8, 2008 in a personal injury action. The order, insofar as appealed from, upon reargument granted defendant's motion for a new trial unless plaintiff stipulated to reduce the award of damages to a certain amount.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on June 14, 2010,

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

Entered: July 9, 2010

Patricia L. Morgan
Clerk of the Court