

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

94

CA 10-01145

PRESENT: SMITH, J.P., FAHEY, SCONIERS, AND MARTOCHE, JJ.

ASD SPECIALTY HEALTHCARE, INC., DOING BUSINESS
AS ONCOLOGY SUPPLY COMPANY, DERIVATIVELY ON
BEHALF OF SYRACUSE HEMATOLOGY/ONCOLOGY, P.C.,
PLAINTIFF-RESPONDENT,

V

ORDER

J. ROBERT SMITH, DEFENDANT,
BENJAMIN S. HIMPLER AND ANGELIE ROMAN,
DEFENDANTS-APPELLANTS.

WALTER D. KOGUT, P.C., SYRACUSE (WALTER D. KOGUT OF COUNSEL), AND
FRANKLIN A. JOSEF, FAYETTEVILLE, FOR DEFENDANTS-APPELLANTS.

PORTER NORDBY HOWE, LLP, SYRACUSE (ERIC C. NORDBY OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Onondaga County (Brian F. DeJoseph, J.), entered February 22, 2010. The order granted plaintiff's motion for leave to reargue and upon reargument reinstated plaintiff's complaint.

Now, upon reading and filing the stipulation withdrawing appeal signed by the attorneys for the parties on January 11, 2011,

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

Entered: February 10, 2011

Patricia L. Morgan
Clerk of the Court