

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

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CA 10-01717

PRESENT: CENTRA, J.P., CARNI, LINDLEY, GREEN, AND GORSKI, JJ.

FRANK W. KILEY, III, PLAINTIFF-RESPONDENT,

V

ORDER

GREENFIELD MANOR, INC. AND WILSANDRA
CONSTRUCTION CO., INC., DEFENDANTS-APPELLANTS.

KENNEY SHELTON LIPTAK NOWAK LLP, BUFFALO (WENDY A. SCOTT OF COUNSEL),
FOR DEFENDANTS-APPELLANTS.

LEWIS & LEWIS, P.C., BUFFALO (ALLAN M. LEWIS OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Frederick J. Marshall, J.), entered May 3, 2010 in a personal injury action. The order, insofar as appealed from, denied the motion of defendants for summary judgment dismissing plaintiff's Labor Law § 241 (6) cause of action insofar as it is based upon a violation of 12 NYCRR 23-1.8 (c) (1).

Now, upon reading and filing the stipulation discontinuing appeal signed by the attorneys for the parties on December 6, 2010,

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