

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

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CA 10-02316

PRESENT: SMITH, J.P., PERADOTTO, CARNI, SCONIERS, AND GREEN, JJ.

NICK MALKIN AND ZINA MALKIN,
PLAINTIFFS-RESPONDENTS,

V

ORDER

MARISA LYN BANKS, ET AL., DEFENDANTS,
ALYSSA Z. BENSON AND MARIA GIANNINO,
DEFENDANTS-APPELLANTS.

HAGELIN KENT LLC, BUFFALO (ELIZABETH A. BRUCE OF COUNSEL), FOR
DEFENDANTS-APPELLANTS.

GIBSON, MCASKILL & CROSBY, LLP, BUFFALO (CHARLES S. DESMOND, II, OF
COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

GOLDBERG SEGALLA, LLP, BUFFALO (TROY S. FLASCHER OF COUNSEL), FOR
DEFENDANT MARISA LYN BANKS.

Appeal from an order of the Supreme Court, Erie County (Frank A. Sedita, Jr., J.), entered February 18, 2010. The order denied the motion of defendants Alyssa Z. Benson and Maria Giannino for summary judgment on the issue of proximate cause.

Now, upon the stipulation of discontinuance signed by the attorneys for the parties on April 29, 2011, and filed in the Erie County Clerk's Office on June 29, 2011,

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

Entered: October 7, 2011

Patricia L. Morgan
Clerk of the Court