

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

370

**CA 11-01459**

PRESENT: SCUDDER, P.J., CENTRA, CARNI, LINDLEY, AND MARTOCHE, JJ.

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GARY A. BENNETT, PLAINTIFF-APPELLANT,

V

ORDER

PRESBYTERIAN SENIOR CARE OF WESTERN NEW  
YORK, INC., DEFENDANT-RESPONDENT,  
ET AL., DEFENDANT.

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LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (JOHN A. COLLINS OF COUNSEL),  
FOR PLAINTIFF-APPELLANT.

DAMON MOREY LLP, BUFFALO (VINCENT G. SACCOMANDO OF COUNSEL), FOR  
DEFENDANT-RESPONDENT AND DEFENDANT.

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Appeal from an order of the Supreme Court, Erie County (Frederick J. Marshall, J.), entered February 7, 2011 in a personal injury action. The order, insofar as appealed from, denied the cross motion of plaintiff for partial summary judgment.

Now, upon reading and filing the stipulation withdrawing and discontinuing appeal signed by the attorneys for the parties on January 19, 2012 and filed on February 15, 2012,

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

Entered: March 16, 2012

Frances E. Cafarell  
Clerk of the Court