

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

688

CA 11-02430

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

KENNETH M. SCHLAU, JR., PLAINTIFF-APPELLANT,

V

ORDER

CITY OF BUFFALO, ET AL., DEFENDANTS,
AND FREY ELECTRIC CONSTRUCTION CO., INC.,
DEFENDANT-RESPONDENT.
(APPEAL NO. 2.)

PAUL WILLIAM BELTZ, P.C., BUFFALO (DEBRA A. NORTON OF COUNSEL), FOR
PLAINTIFF-APPELLANT.

RUPP, BAASE, PFALZGRAF, CUNNINGHAM & COPPOLA LLC, BUFFALO (KIMBERLY A.
GEORGER OF COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered October 7, 2011 in a personal injury action. The order, among other things, denied plaintiff's motion for leave to reargue his opposition to the summary judgment motion of defendant Frey Electric Construction Co., Inc.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Empire Ins. Co. v Food City*, 167 AD2d 983, 984).

Entered: June 15, 2012

Frances E. Cafarell
Clerk of the Court