

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D30455
Y/prt

_____AD3d_____

Submitted - February 8, 2011

JOSEPH COVELLO, J.P.
PLUMMER E. LOTT
SHERI S. ROMAN
ROBERT J. MILLER, JJ.

2010-03712

DECISION & ORDER

Tammy Kruseck, et al., appellants, v
Jeffrey Ross, respondent.

(Index No. 9899/06)

Mark Lewis Schulman, Monticello, N.Y., for appellants.

James R. McCarl, Montgomery, N.Y., for respondent.

In an action to recover damages for personal injuries, the plaintiffs appeal from an order of the Supreme Court, Orange County (Lubell, J.), dated January 14, 2010, which denied their motion pursuant to CPLR 4404(a) to set aside a jury verdict in favor of the defendant and against them on the issue of liability.

ORDERED that the appeal is dismissed, with costs.

It is the obligation of the appellant to assemble a proper record on appeal, which must include any relevant transcripts of proceedings before the Supreme Court (*see Rivera v City of New York*, 80 AD3d 595; *Vandenburg & Feliu, LLP v Interboro Packaging Corp.*, 70 AD3d 931, 932; *Marcantonio v Picozzi*, 46 AD3d 522, 523). Here, the plaintiffs seek review of an order which denied their motion pursuant to CPLR 4404(a) to set aside a jury verdict in favor of the defendant and against them on the issue of liability, yet they failed to include the trial transcript in the record on appeal. The record is inadequate to enable this Court to render an informed decision on the merits,

March 15, 2011

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and therefore, the appeal must be dismissed (*see Schwartz v Schwartz*, 73 AD3d 1156, 1156-1157; *Nakyeoung Seoung v Vicuna*, 38 AD3d 734, 735; *Gerhardt v New York City Tr. Auth.*, 8 AD3d 427; *Matson v County of Nassau*, 290 AD2d 494, 495).

COVELLO, J.P., LOTT, ROMAN and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court