

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

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CA 13-02095

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, AND VALENTINO, JJ.

DARRYL GAITER AND HELEN GAITER, INDIVIDUALLY
AND AS HUSBAND AND WIFE, PLAINTIFFS-APPELLANTS,

V

MEMORANDUM AND ORDER

CITY OF BUFFALO BOARD OF EDUCATION AND MARTIN
LUTHER KING SCHOOL #39, DEFENDANTS-RESPONDENTS.

LAW OFFICE OF ERIC B. GROSSMAN, WILLIAMSVILLE (ERIC B. GROSSMAN OF
COUNSEL), FOR PLAINTIFFS-APPELLANTS.

Appeal from an order of the Supreme Court, Erie County (Timothy J. Drury, J.), entered February 4, 2013 in a personal injury action. The order awarded plaintiffs monetary damages.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: On appeal from an order entered after a nonjury trial, plaintiffs contend that the verdict sheet failed to include an award for past medical expenses despite a stipulation of the parties to the inclusion of such an award in a specified amount. We are unable to determine the merits of plaintiffs' contention inasmuch as the 28-page record on appeal does not contain sufficient information to enable us to determine whether there was an enforceable stipulation and, if so, whether plaintiffs requested that the verdict sheet contain the alleged stipulated sum for past medical expenses. Plaintiffs, as the appellants, must suffer the consequences of having submitted an incomplete record (*see Matter of Rodriguez v Ward*, 43 AD3d 640, 641).

Entered: June 20, 2014

Frances E. Cafarell
Clerk of the Court