

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

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CA 13-01318

PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ.

PEGGY ANN ROSE, AS EXECUTRIX OF THE ESTATE OF
JOYCE PRZYTULA, DECEASED, AND JOHN PRZYTULA,
PLAINTIFFS-RESPONDENTS,

V

ORDER

BROOKS MEMORIAL HOSPITAL, GREGORY C.
DIFRANCESCO, M.D., JAMES P. FITZGERALD, M.D.,
LAKESHORE ORTHOPEDIC GROUP, P.C.,
DEFENDANTS-RESPONDENTS,
REENA BOSE, M.D. AND RAZVAN BALOTESCU, M.D.,
DEFENDANTS-APPELLANTS.

DAMON MOREY LLP, BUFFALO (MARYLOU K. ROSHIA OF COUNSEL), FOR
DEFENDANTS-APPELLANTS.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (LARAINÉ KELLEY OF COUNSEL),
FOR PLAINTIFFS-RESPONDENTS.

RICOTTA & VISCO, BUFFALO (K. JOHN BLAND OF COUNSEL), FOR DEFENDANT-
RESPONDENT BROOKS MEMORIAL HOSPITAL.

FELDMAN KIEFFER, LLP, BUFFALO (JAMES E. EAGAN OF COUNSEL), FOR
DEFENDANT-RESPONDENT GREGORY C. DIFRANCESCO, M.D.

Appeal from an order of the Supreme Court, Chautauqua County
(Deborah A. Chimes, J.), entered March 22, 2013. The order, insofar
as appealed from, denied in part the motion of defendants Reena Bose,
M.D., and Razvan Balotescu, M.D., to preclude certain testimony of
plaintiffs' expert and granted the motion of plaintiffs to direct
Marylou K. Roshia to accept service of subpoenas for Reena Bose, M.D.
and Razvan Balotescu, M.D., out-of-state residents.

Now, upon the stipulation of discontinuance signed by the
attorneys for the parties on January 14, 2014, and filed in the
Chautauqua County Clerk's Office on February 12, 2014,

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

Entered: September 26, 2014

Frances E. Cafarell
Clerk of the Court