

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

792

CA 17-02013

PRESENT: SMITH, J.P., CENTRA, LINDLEY, CURRAN, AND WINSLOW, JJ.

LOUIS YOURDON, JAMES R. BELTER,
PLAINTIFFS-RESPONDENTS,
ET AL., PLAINTIFFS,

V

MEMORANDUM AND ORDER

JUDY CURTIS, CERTIFIED REGISTERED COUNSELOR
MID-ERIE COUNSELING TREATMENT CENTER, MID-ERIE
COUNSELING TREATMENT CENTER, DR. ARVIND
SAMANT, M.D., DEFENDANTS-APPELLANTS,
ET AL., DEFENDANTS.

BARCLAY DAMON LLP, BUFFALO (ARIANNA KWIATKOWSKI OF COUNSEL), FOR
DEFENDANTS-APPELLANTS JUDY CURTIS, CERTIFIED REGISTERED COUNSELOR
MID-ERIE COUNSELING TREATMENT CENTER, AND MID-ERIE COUNSELING
TREATMENT CENTER.

GIBSON, MCASKILL & CROSBY, LLP, BUFFALO (PAULETTE E. ROSS OF COUNSEL),
FOR DEFENDANT-APPELLANT DR. ARVIND SAMANT, M.D.

LOUIS ROSADO, BUFFALO, FOR PLAINTIFFS-RESPONDENTS.

Appeals from an order of the Supreme Court, Erie County (Tracey A. Bannister, J.), entered July 6, 2017. The order denied the motions of defendants Judy Curtis, Mid-Erie Counseling Treatment Center and Dr. Arvind Samant, M.D., to dismiss the complaint of plaintiffs Louis Yourdon and James R. Belter.

It is hereby ORDERED that said appeals are unanimously dismissed without costs.

Memorandum: Plaintiffs-respondents (plaintiffs) commenced this negligence and malpractice action seeking compensatory and punitive damages arising from mental health services they received from defendants-appellants (defendants). Defendants appeal from an order that, inter alia, denied their motions pursuant to CPLR 3211 to dismiss the complaint against them. Subsequently, Supreme Court granted defendants' motions pursuant to CPLR 3126 to dismiss plaintiffs' complaint against them, and plaintiffs failed to appeal from that order or to move for leave to reargue with respect to that order, and the time to do so has expired. These appeals are therefore moot, and the exception to the mootness doctrine does not apply (see generally *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715

[1980]).

Entered: June 15, 2018

Mark W. Bennett
Clerk of the Court