

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

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CA 10-02260

PRESENT: SCUDDER, P.J., FAHEY, CARNI, GREEN, AND GORSKI, JJ.

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OTU A. OBOT, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

MEDAILLE COLLEGE, DEFENDANT-RESPONDENT.

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OTU A. OBOT, PLAINTIFF-APPELLANT PRO SE.

PHILLIPS LYTTLE LLP, BUFFALO (ERICKA N. BENNETT OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Patrick H. NeMoyer, J.), entered May 25, 2010. The order struck and vacated the note of issue and certificate of readiness.

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

Memorandum: Inasmuch as no appeal lies as of right "from an ex parte order, including an order entered sua sponte" (*Sholes v Meagher*, 100 NY2d 333, 335; see *Bajrovic v Jeff Anders Trucking*, 52 AD3d 553), and permission to appeal has not been granted (see CPLR 5701 [c]), the appeal must be dismissed (see *Mohler v Nardone*, 53 AD3d 600).

Entered: March 25, 2011

Patricia L. Morgan  
Clerk of the Court