

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

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CA 10-02188

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, SCONIERS, AND MARTOCHE, JJ.

ALAN G. JERGE AND LAUREL AND HARDY CAFÉ, INC.,
PLAINTIFFS-RESPONDENTS,

V

ORDER

PENN-AMERICA GROUP, INC., PENN-STAR INSURANCE
COMPANY, UNITED AMERICA INSURANCE GROUP, UNITED
AMERICA INDEMNITY, LTD., DEFENDANTS-APPELLANTS,
RONALD BRANIA, SR. AND DARLENE BRANIA,
DEFENDANTS-RESPONDENTS.

KENNEY SHELTON LIPTAK NOWAK LLP, BUFFALO (JUDITH TREGER SHELTON OF
COUNSEL), FOR DEFENDANTS-APPELLANTS.

MUSCATO & SHATKIN LLP, BUFFALO (PAUL SHATKIN OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS.

MICHAEL G. COOPER, HAMBURG, FOR PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Erie County (Timothy J. Drury, J.), entered June 2, 2010. The order, among other things, denied the motion of defendants Penn-America Group, Inc., Penn-Star Insurance Company, United America Insurance Group and United America Indemnity, Ltd. for summary judgment and granted that part of plaintiffs' cross motion seeking a declaration that those defendants are obligated to defend plaintiffs in the underlying action commenced by defendants Ronald Brania, Sr. and Darlene Brania.

Now, upon reading and filing the stipulation to withdraw appeal signed by the attorneys for the parties on March 24, 28 and 31, 2011,

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

Entered: April 29, 2011

Patricia L. Morgan
Clerk of the Court