

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

**277**

**CA 07-01977**

PRESENT: SCUDDER, P.J., HURLBUTT, PERADOTTO, GREEN, AND GORSKI, JJ.

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ELLIOT MARKOWITZ, CLAIMANT-RESPONDENT,

V

ORDER

STATE OF NEW YORK, DEFENDANT-APPELLANT.  
(CLAIM NO. 105735.)

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ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (KATHLEEN M. TREASURE OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

ROURA & MELAMED, NEW YORK CITY, POLLACK, POLLACK, ISAAC & DECICCO  
(JILLIAN ROSEN OF COUNSEL), FOR CLAIMANT-RESPONDENT.

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Appeal from an order of the Court of Claims (Philip J. Patti, J.), entered August 31, 2007 in a negligence action. The order, insofar as appealed from, granted the motion of claimant to vacate the note of issue and denied defendant's motion for a protective order.

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

Entered: March 20, 2009

JoAnn M. Wahl  
Clerk of the Court