

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

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**CA 08-01521**

PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ.

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JOHN P. MERGLER, PLAINTIFF-RESPONDENT,

V

ORDER

CSX TRANSPORTATION, INC., DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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ANSPACH MEEKS ELLENBERGER LLP, BUFFALO (J. CHRISTINE CHIRIBOGA OF COUNSEL), FOR DEFENDANT-APPELLANT.

DORAN & MURPHY, LLP, BUFFALO (COLLEEN M. MURPHY OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County (Joseph G. Makowski, J.), entered October 30, 2007 in a personal injury action. The judgment awarded plaintiff money damages upon a jury verdict.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (see generally *Karagiannis v New York State Thruway Auth.*, 209 AD2d 995).

Entered: March 27, 2009

JoAnn M. Wahl  
Clerk of the Court