

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

808

CA 08-02043

PRESENT: HURLBUTT, J.P., SMITH, CENTRA, PINE, AND GORSKI, JJ.

BRIAN J. SMITH, PLAINTIFF-APPELLANT,

V

ORDER

ROMESH K. KOHLI, DEFENDANT-RESPONDENT.

CANTOR, LUKASIK, DOLCE & PANEPINTO, P.C., BUFFALO (FRANK J. DOLCE OF COUNSEL), FOR PLAINTIFF-APPELLANT.

LAW OFFICES OF MARY A. BJORK, ROCHESTER (THOMAS P. DURKIN OF COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered July 1, 2008 in a personal injury action. The order, insofar as appealed from, denied the motion of plaintiff for partial summary judgment on the issue of serious injury.

Now, upon reading and filing the stipulation to withdraw appeal signed by the attorneys for the parties on May 11, 2009,

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

Entered: June 5, 2009

Patricia L. Morgan
Clerk of the Court