

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

1506

CA 09-01354

PRESENT: HURLBUTT, J.P., PERADOTTO, CARNI, PINE, AND GORSKI, JJ.

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HOME THERAPY EQUIPMENT, INC.,  
PLAINTIFF-RESPONDENT,

V

ORDER

BRENDA LEE HART, DEFENDANT-APPELLANT,  
ET AL., DEFENDANT.

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O'CONNELL AND ARONOWITZ, ALBANY (JEFFREY J. SHERRIN OF COUNSEL), FOR  
DEFENDANT-APPELLANT AND DEFENDANT.

DAMON MOREY LLP, BUFFALO (STEPHEN M. O'NEILL OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (John M. Curran, J.), entered May 14, 2009. The order, insofar as appealed from, granted in part plaintiff's motion seeking a preliminary injunction to enforce a restrictive covenant contained in an employment agreement.

Now, upon reading and filing the stipulation of discontinuance of appeal signed by the attorneys for the parties on November 16 and 19, 2009,

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

Entered: December 30, 2009

Patricia L. Morgan  
Clerk of the Court