

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

1395

CA 10-00442

PRESENT: CENTRA, J.P., CARNI, SCONIERS, AND PINE, JJ.

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ROBERT GREEN AND KERRY GREEN,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

C.O. FALTER CONSTRUCTION CORP., CITY OF  
BUFFALO SEWER AUTHORITY AND CITY OF  
BUFFALO, DEFENDANTS-APPELLANTS.

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CULLEY, MARKS, TANENBAUM & PEZZULO, LLP, ROCHESTER (AMY L. DIFRANCO OF  
COUNSEL), FOR DEFENDANTS-APPELLANTS.

COLLINS & BROWN, LLP, BUFFALO (CHARLES H. COBB OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered January 6, 2010. The order, insofar as appealed from, denied in part the cross motion of defendants for summary judgment.

Now, upon the stipulation of discontinuance of action signed by the attorneys for the parties on November 30 and December 3, 2010, and filed in the Erie County Clerk's Office on January 12, 2011,

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

All concur except PINE, J., who is not participating.

Entered: February 10, 2011

Patricia L. Morgan  
Clerk of the Court