

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

789

CA 12-00231

PRESENT: SCUDDER, P.J., SMITH, FAHEY, LINDLEY, AND MARTOCHE, JJ.

KIRK RUTHERFORD, PLAINTIFF-RESPONDENT,

V

ORDER

SPENCER SPEEDWAY, INC., NATIONAL ASSOCIATION
FOR STOCK CAR AUTO RACING, INC., JOHN WHITE
AND JOHN MULLIE, DEFENDANTS-APPELLANTS.

DAMON MOREY LLP, BUFFALO (MICHAEL E. APPELBAUM OF COUNSEL), FOR
DEFENDANTS-APPELLANTS.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (MICHAEL P. STUERMER OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Niagara County
(Richard C. Kloch, Sr., A.J.), entered July 6, 2011 in a personal
injury action. The order denied the motion of defendants for summary
judgment dismissing the complaint.

Now, upon the stipulation of discontinuance signed by the
attorneys for the parties on June 7 and 8, 2012 and filed in the
Niagara County Clerk's Office on June 25, 2012,

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

Entered: July 6, 2012

Frances E. Cafarell
Clerk of the Court