

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

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**CA 12-01461**

PRESENT: SMITH, J.P., FAHEY, VALENTINO, WHALEN, AND MARTOCHE, JJ.

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MARIE M. GARVEY, PLAINTIFF-RESPONDENT,

V

ORDER

MEDAMERICA FINGERLAKES LONG TERM CARE  
INSURANCE COMPANY, DEFENDANT,  
AND CARESCOUT, DEFENDANT-APPELLANT.

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HODGSON RUSS LLP, BUFFALO (STEPHEN W. KELKENBERG OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

CARNEY & GIALLANZA, BUFFALO (MARY G. CARNEY OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

BOND SCHOENECK & KING, SYRACUSE (J.P. WRIGHT OF COUNSEL), FOR  
DEFENDANT.

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Appeal from an order of the Supreme Court, Erie County (Kevin M. Dillon, J.), entered April 3, 2012. The order, insofar as appealed from, denied in part the motion of defendant CareScout to dismiss the amended complaint against it.

Now, upon the stipulation of discontinuance signed by the attorneys for the parties on November 27, 2012, and filed in the Erie County Clerk's Office on December 6, 2012,

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

Entered: March 15, 2013

Frances E. Cafarell  
Clerk of the Court