

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

838

CA 12-02159

PRESENT: SCUDDER, P.J., SMITH, CENTRA, FAHEY, AND PERADOTTO, JJ.

DAVID SHUMWAY AND CATHY SHUMWAY,
PLAINTIFFS-APPELLANTS,

V

ORDER

JUSTIN KELLEY, DEFENDANT-RESPONDENT.
(APPEAL NO. 1.)

E. ROBERT FUSSELL, P.C., LEROY (E. ROBERT FUSSELL OF COUNSEL), FOR
PLAINTIFFS-APPELLANTS.

KENNEY SHELTON LIPTAK NOWAK LLP, BUFFALO (AMANDA L. MACHACEK OF
COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Genesee County (John M. Curran, J.), entered March 12, 2012. The order denied the motion of plaintiffs to set aside a jury verdict.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Smith v Catholic Med. Ctr. of Brooklyn & Queens*, 155 AD2d 435, 435; *see also* CPLR 5501 [a] [1], [2]).

Entered: September 27, 2013

Frances E. Cafarell
Clerk of the Court