

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

1246.1

CA 14-01335

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, VALENTINO, AND DEJOSEPH, JJ.

CAPITAL ONE NA, PLAINTIFF-RESPONDENT,

V

ORDER

DAVID COLUCCI, DEFENDANT-APPELLANT.

LAW OFFICE OF JOHN J. DELMONTE, NIAGARA FALLS (JOHN J. DELMONTE OF COUNSEL), FOR DEFENDANT-APPELLANT.

RUBIN & ROTHMAN, LLC, ISLANDIA (DAVID K. KOWALENKO OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Niagara County (Frank Caruso, J.), entered October 8, 2013. The order, among other things, denied defendant's motion to vacate a default judgment.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on October 23, 2015,

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

Entered: November 13, 2015

Frances E. Cafarell
Clerk of the Court