

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

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CA 14-01688

PRESENT: SCUDDER, P.J., SMITH, CARNI, SCONIERS, AND WHALEN, JJ.

WILLIAM M. EDDY, PLAINTIFF-APPELLANT,

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MEMORANDUM AND ORDER

DAVID ANTANAVIGE, DEFENDANT-RESPONDENT.

MURRAY JS KIRSHTEIN, UTICA, FOR PLAINTIFF-APPELLANT.

LONGERETTA LAW FIRM, UTICA (DAVID A. LONGERETTA OF COUNSEL), FOR
DEFENDANT-RESPONDENT.

Appeal from a decision of the Supreme Court, Oneida County (David A. Murad, J.), dated August 28, 2013. The decision, among other things, determined that plaintiff is entitled to interest from June 14, 2013.

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

Memorandum: Following a bench trial by Supreme Court in this breach of contract action, plaintiff purports to appeal from a decision stating that he is entitled to a judgment of \$25,000 and interest thereon, and directing defendant's attorney to submit a proposed judgment in accordance with the terms of the decision. The appeal must be dismissed inasmuch as "[n]o appeal lies from a mere decision" (*Kuhn v Kuhn*, 129 AD2d 967, 967; see CPLR 5512 [a]; *Plastic Surgery Group of Rochester, LLC v Evangelisti*, 39 AD3d 1265, 1266), and there is no judgment in the record on appeal (see *Bruno v Vernon Park Realty*, 2 AD2d 770, 771; see also CPLR 5526; 22 NYCRR 1000.4 [a] [2]).

Entered: March 20, 2015

Frances E. Cafarell
Clerk of the Court