

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

701

CA 14-02298

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

COLLEEN M. ZBOCK, AS ADMINISTRATRIX OF THE
ESTATE OF JOHN P. ZBOCK, JR., DECEASED,
PLAINTIFF-RESPONDENT,

V

ORDER

DANIEL B. GIETZ, ET AL., DEFENDANTS,
PHILLIP C. FOURNIER, FOURNIER ENTERPRISES, INC.,
AND COPE BESTWAY EXPRESS, INC., DOING BUSINESS AS
BESTWAY DISTRIBUTION SERVICE,
DEFENDANTS-APPELLANTS.

BURDEN, GULISANO & HICKEY, LLC, BUFFALO (ANDREW KOWALEWSKI OF
COUNSEL), FOR DEFENDANTS-APPELLANTS.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (JOHN A. COLLINS OF COUNSEL),
FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Timothy J. Drury, J.), entered May 14, 2014. The order denied the motion of defendants Phillip C. Fournier, Fournier Enterprises, Inc., and Cope Bestway Express, Inc., doing business as Bestway Distribution Service, to preclude plaintiff from presenting testimony of Stephanie P. Messina or, in the alternative, to compel plaintiff's counsel to produce a copy of Stephanie P. Messina's statement.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: June 12, 2015

Frances E. Cafarell
Clerk of the Court