

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

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CA 21-01339

PRESENT: LINDLEY, J.P., NEMOYER, CURRAN, WINSLOW, AND BANNISTER, JJ.

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OF DOE 45, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

ERIK P.R., DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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BONARIGO & MCCUTCHEON, BATAVIA (KRISTIE L. DEFREZE OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

O'BRIEN & FORD, P.C., BUFFALO (CHRISTOPHER J. O'BRIEN OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Mark J. Grisanti, A.J.), entered April 28, 2021. The order granted plaintiff's motion for partial summary judgment on liability.

It is hereby ORDERED that the order so appealed from is reversed on the law without costs and the motion is denied.

Same memorandum as in *OF Doe 44 v Erik P.R.* ([appeal No. 1] – AD3d – [Aug. 4, 2022] [4th Dept 2022]).

All concur except BANNISTER, J., who dissents and votes to affirm in the same memorandum as in *OF Doe 44 v Erik P.R.* ([appeal No. 1] – AD3d – [Aug. 4, 2022] [4th Dept 2022]).

Entered: August 4, 2022

Ann Dillon Flynn  
Clerk of the Court