

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

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CA 23-02081

PRESENT: LINDLEY, J.P., CURRAN, GREENWOOD, AND HANNAH, JJ.

THOMAS C. WILMOT, SR., THOMAS C. WILMOT, JR.,
AND LORETTA W. CONROY, PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

TONY KIRIK, DEFENDANT-APPELLANT,
ET AL., DEFENDANT.

ROSENHOUSE LAW FIRM, ROCHESTER (MICHAEL A. ROSENHOUSE OF COUNSEL), FOR
DEFENDANT-APPELLANT.

HARRIS BEACH PLLC, PITTSFORD (H. TODD BULLARD OF COUNSEL), FOR
PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Monroe County (Debra A. Martin, A.J.), entered June 20, 2023. The order, inter alia, denied the motion of plaintiffs for "modification and clarification" of a prior judgment.

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

Memorandum: Defendant Tony Kirik appeals from a 2023 order that, inter alia, denied plaintiffs' motion for "modification and clarification" of Supreme Court's 2021 judgment "pursuant to CPLR 5019 (a)." As we recently noted in a related CPLR article 78 proceeding, "the 2023 order did not substantially modify the 2021 judgment" (*Matter of Kirik v Martin*, 233 AD3d 1493, 1495 [4th Dept 2024]). Inasmuch as "no appeal lies from the denial of a motion to resettle [or clarify] a substantive portion of an order" (*Matter of Torpey v Town of Colonie, N.Y.*, 107 AD3d 1124, 1126 [3d Dept 2013] [internal quotation marks omitted]; see *Hutchings v Garrison Lifestyle Pierce Hill, LLC*, 188 AD3d 1332, 1333 [3d Dept 2020]; *Kimmel v State of New York*, 267 AD2d 1079, 1081 [4th Dept 1999]; see also *MacKenzie v Bison El., Inc.*, 8 AD3d 1062, 1063 [4th Dept 2004]), we dismiss this appeal.

Entered: April 25, 2025

Ann Dillon Flynn
Clerk of the Court