

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

786

CA 14-01885

PRESENT: SCUDDER, P.J., SMITH, SCONIERS, VALENTINO, AND DEJOSEPH, JJ.

DEBORA KALBFLIESH AND KENNETH KALBFLIESH, JR.,
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

ANDREA MCCANN, JOHN MCCANN,
DEFENDANTS-RESPONDENTS,
JOSEPH A. MOSES AND SMART RIDE LTD.,
DEFENDANTS-APPELLANTS.
(APPEAL NO. 2.)

LIPPMAN O'CONNOR, BUFFALO (GERARD E. O'CONNOR OF COUNSEL), FOR
DEFENDANTS-APPELLANTS.

CAMPBELL & SHELTON, LLP, EDEN, MAGAVERN MAGAVERN GRIMM LLP, BUFFALO
(EDWARD J. MARKARIAN OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

HAGELIN KENT, LLC, BUFFALO (BENJAMIN R. WOLF OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS.

Appeal from an order of the Supreme Court, Niagara County (Mark A. Montour, J.), entered September 29, 2014 in a personal injury action. The order denied the motion of defendants Joseph A. Moses and Smart Ride Ltd. seeking to settle the record on appeal to exclude a certain letter.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Same memorandum as in *Kalbfliesh v McCann* ([appeal No. 1] ____ AD3d ____ [June 19, 2015]).

Entered: June 19, 2015

Frances E. Cafarell
Clerk of the Court