

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

**275**

**CA 15-01370**

PRESENT: WHALEN, P.J., CENTRA, CARNI, DEJOSEPH, AND TROUTMAN, JJ.

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DALE S. BAUTER, PLAINTIFF-APPELLANT,

V

ORDER

ROBERT E. COMSTOCK, DEFENDANT-RESPONDENT.

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STANLEY LAW OFFICES, SYRACUSE (ROBERT A. QUATTROCCI OF COUNSEL), FOR  
PLAINTIFF-APPELLANT.

HAGELIN KENT LLC, BUFFALO (KEITH D. MILLER OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Jefferson County (James P. McClusky, J.), dated March 24, 2015. The order, insofar as appealed from, denied the cross motion of plaintiff for summary judgment on the issue of negligence.

Now, upon reading and filing the stipulation withdrawing appeal signed by the attorneys for the parties on March 22, 2016,

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

Entered: April 29, 2016

Frances E. Cafarell  
Clerk of the Court