

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

**1481**

**CA 18-01134**

PRESENT: SMITH, J.P., CARNI, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ.

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JAVIER RIOS, PLAINTIFF-RESPONDENT,

V

ORDER

LEE SHEPTER AND GAIL SHEPTER,  
DEFENDANTS-APPELLANTS.

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OSBORN REED & BURKE, LLP, ROCHESTER (CHRISTIAN C. CASINI OF COUNSEL),  
FOR DEFENDANTS-APPELLANTS.

LIPSITZ & PONTERIO, LLC, BUFFALO (ANNE E. JOYNT OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Monroe County (John J. Ark, J.), entered September 25, 2017. The order denied defendants' motion for summary judgment.

Now, upon the stipulation of discontinuance signed by the attorneys for the parties on October 29, 2018, and filed in the Monroe County Clerk's Office on November 2, 2018,

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

Entered: December 21, 2018

Mark W. Bennett  
Clerk of the Court