

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

552

CA 09-01613

PRESENT: SMITH, J.P., FAHEY, CARNI, SCONIERS, AND PINE, JJ.

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STEPHEN TURNER, PLAINTIFF-RESPONDENT,

V

ORDER

CSX TRANSPORTATION, INC. AND CONSOLIDATED  
RAIL CORPORATION, DEFENDANTS-APPELLANTS.  
(APPEAL NO. 4.)

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GOLDBERG SEGALLA LLP, ALBANY (MATTHEW S. LERNER OF COUNSEL), ANSPACH  
MEEKS ELLENBERGER LLP, BUFFALO, AND BURNS, WHITE & HICTON, LLC,  
PITTSBURGH, PENNSYLVANIA, FOR DEFENDANTS-APPELLANTS.

COLLINS, COLLINS & DONOGHUE, P.C., BUFFALO (PATRICK DONOGHUE OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Frederick J. Marshall, J.), entered January 23, 2009 in a personal injury action. The order denied defendants' motion for, inter alia, a new trial.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (see *Smith v Catholic Med. Ctr. of Brooklyn & Queens*, 155 AD2d 435; see also CPLR 5501 [a] [1], [2]).

Entered: April 30, 2010

Patricia L. Morgan  
Clerk of the Court