

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

596

**CA 11-01756**

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, CARNI, AND LINDLEY, JJ.

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KATHLEEN P. MUELLER, INDIVIDUALLY AND AS  
ADMINISTRATRIX OF THE ESTATE OF NATALIE C.  
DRUZBIK, DECEASED, PLAINTIFF-RESPONDENT,

V

ORDER

ELDERWOOD HEALTH CARE AT OAKWOOD AND OAKWOOD  
HEALTH CARE CENTER, INC., DEFENDANTS-APPELLANTS.  
(APPEAL NO. 2.)

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DAMON MOREY LLP, BUFFALO (KATHLEEN M. REILLY OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS.

BROWN CHIARI LLP, LANCASTER (MICHAEL C. SCINTA OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (John M. Curran, J.), entered May 3, 2011. The order denied the motion of defendants to set aside the verdict pursuant to CPLR 4404 (a).

Now, upon the stipulation of discontinuance signed by the attorneys for the parties on August 8, 2012, and filed in the Erie County Clerk's Office on August 14, 2012,

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

Entered: September 28, 2012

Frances E. Cafarell  
Clerk of the Court