

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

1308

CA 16-00827

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, DEJOSEPH, AND WINSLOW, JJ.

MARITA E. HYMAN, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

SUSAN N. BURGESS, DEFENDANT-RESPONDENT.
(APPEAL NO. 1.)

MARITA E. HYMAN, PLAINTIFF-APPELLANT PRO SE.

SUSAN N. BURGESS, DEFENDANT-RESPONDENT PRO SE.

Appeal from an order of the Supreme Court, Oneida County (Patrick F. MacRae, J.), dated August 28, 2015. The order granted defendant's motion to withdraw her counterclaims and dismissed the entire action.

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

Memorandum: Plaintiff appeals pro se from an order that granted defendant's motion to withdraw her counterclaims and dismissed the entire action. The Third Department previously affirmed an order that, inter alia, dismissed the complaint (*Hyman v Burgess*, 125 AD3d 1213, 1213-1216 [3d Dept 2015]).

We conclude that plaintiff's appeal must be dismissed because plaintiff is not an "aggrieved party" and thus lacks standing to appeal from the order (CPLR 5511). An aggrieved party is one whose interests are adversely affected by the judgment or order (see generally *Benedetti v Erie County Med. Ctr. Corp.*, 126 AD3d 1322, 1323 [4th Dept 2015]), and plaintiff is not aggrieved by the instant order discontinuing defendant's counterclaims against plaintiff and thus dismissing the entire case.

Entered: November 17, 2017

Mark W. Bennett
Clerk of the Court