

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

1228

CA 19-00693

PRESENT: CARNI, J.P., LINDLEY, CURRAN, WINSLOW, AND BANNISTER, JJ.

ROSEANN MAURER, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

KENDALL COLTON, SHERRY COLTON, AND THOMAS COLTON,
DEFENDANTS-APPELLANTS.
(APPEAL NO. 1.)

LAW OFFICES OF DESTIN C. SANTACROSE, BUFFALO (ELISE L. CASSAR OF
COUNSEL), FOR DEFENDANTS-APPELLANTS.

GIBSON, MCASKILL & CROSBY, LLP, BUFFALO (MICHAEL J. WILLET OF
COUNSEL), AND THE HIGGINS KANE LAW GROUP, P.C., FOR
PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Mark A. Montour, J.), entered October 26, 2018. The order, among other things, granted plaintiff's motion seeking partial summary judgment on the issue of serious injury.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by denying plaintiff's motion for partial summary judgment with respect to the 90/180-day category of serious injury and with respect to the permanent consequential limitation of use and significant limitation of use categories insofar as they relate to the alleged injury to her right knee and as modified the order is affirmed without costs.

Same memorandum as in *Maurer v Colton* ([appeal No. 3] – AD3d – [Feb. 7, 2020] [4th Dept 2020]).

Entered: February 7, 2020

Mark W. Bennett
Clerk of the Court