

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

**84**

**CA 21-00196**

PRESENT: SMITH, J.P., LINDLEY, NEMOYER, CURRAN, AND BANNISTER, JJ.

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JOHN T. DELZOTTO, PLAINTIFF-RESPONDENT,

V

ORDER

KATHLEEN LEBOY, MAXIAMILLION M. HERNANDEZ,  
DEFENDANTS-APPELLANTS,  
ET AL., DEFENDANT.

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KENNEY SHELTON LIPTAK NOWAK LLP, BUFFALO (NELSON E. SCHULE, JR., OF  
COUNSEL), FOR DEFENDANTS-APPELLANTS.

LAW OFFICE OF ERIC B. GROSSMAN, WILLIAMSVILLE (ERIC B. GROSSMAN OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Catherine R. Nugent Panepinto, J.), entered January 7, 2021. The order, among other things, denied the motion of defendants Kathleen Laboy and Maxiamillion M. Hernandez to dismiss the action and vacate a prior order granting plaintiff summary judgment.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on November 18, 2021,

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

Entered: January 28, 2022

Ann Dillon Flynn  
Clerk of the Court