

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

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**CA 20-01197**

PRESENT: PERADOTTO, J.P., LINDLEY, WINSLOW, AND BANNISTER, JJ.

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GARY MYERS AND CYNTHIA MYERS,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

INVACARE CORPORATION, DEFENDANT,  
RELIANT PHARMACY CORP., RELIANT MEDICAL  
EQUIPMENT, THE MCGUIRE GROUP, INC., FRANCIS  
JAMES MCGUIRE, DOING BUSINESS AS RELIANT  
MEDICAL EQUIPMENT & SUPPLY,  
DEFENDANTS-RESPONDENTS,  
KALEIDA HEALTH AND BUFFALO GENERAL HOSPITAL,  
DEFENDANTS-APPELLANTS.  
(APPEAL NO. 1.)

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GIBSON, MCASKILL & CROSBY, LLP, BUFFALO (ROBERT D. BARONE OF COUNSEL),  
FOR DEFENDANTS-APPELLANTS.

DOLCE FIRM, P.C., BUFFALO (ANNE M. WHEELER OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS.

BARGNESI BRITT, PLLC, BUFFALO (JASON T. BRITT OF COUNSEL), FOR  
DEFENDANTS-RESPONDENTS.

MONACO COOPER LAMME & CARR, PLLC, ALBANY (ADAM H. COOPER OF COUNSEL),  
FOR DEFENDANT.

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Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered September 8, 2020. The order denied the motion of defendants-appellants for, among other things, summary judgment.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on December 14, 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