

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

399

CA 21-00338

PRESENT: SMITH, J.P., CENTRA, LINDLEY, AND CURRAN, JJ.

---

CAITLIN MCCANN, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

DAVID GORDON, DEFENDANT-APPELLANT.

---

DAVID GORDON, DEFENDANT-APPELLANT PRO SE.

BRINDISI, MURAD, BRINDISI & PEARLMAN, LLP, UTICA (EVA BRINDISI PEARLMAN OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

---

Appeal from an order of the Supreme Court, Oneida County (Scott J. DelConte, J.), entered February 10, 2021. The order, inter alia, granted the motion of plaintiff for summary judgment on the issue of liability on her defamation cause of action and denied defendant's cross motion to dismiss the complaint.

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

Memorandum: Defendant appeals from an order that, inter alia, granted plaintiff's motion for summary judgment with respect to liability on her defamation cause of action and denied defendant's cross motion to dismiss the complaint. "The right to appeal from an intermediate order terminates with the entry of a final judgment" (*City of Syracuse v COR Dev. Co., LLC*, 147 AD3d 1510, 1510 [2017] [internal quotation marks omitted]; see *Matter of Aho*, 39 NY2d 241, 248 [1976]). Because the record of this case in the New York State Courts Electronic Filing System establishes that a final judgment was entered on January 7, 2022, of which we take judicial notice (see *1591 Second Ave. LLC v Metropolitan Transp. Auth.*, 202 AD3d 582, 583 [1st Dept 2022]), defendant's appeal from the intermediate order must be dismissed (see *McDonough v Transit Rd. Apts., LLC*, 164 AD3d 1603, 1603 [4th Dept 2018]; see generally *Chase Manhattan Bank, N.A. v Roberts & Roberts*, 63 AD2d 566, 567 [1st Dept 1978]).

Entered: April 22, 2022

Ann Dillon Flynn  
Clerk of the Court