

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

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CA 22-00213

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

LORI ANN MITERKO, AS EXECUTOR OF THE ESTATE OF
PAUL MITERKO, DECEASED, PLAINTIFF-RESPONDENT,

V

ORDER

AUTUMN VIEW HEALTH CARE FACILITY, AUTUMN VIEW
HEALTH CARE FACILITY, LLC, DEFENDANTS,
AND LEROY MCCUNE, M.D., DEFENDANT-APPELLANT.

ROACH, BROWN, MCCARTHY & GRUBER, P.C., BUFFALO (J. MARK GRUBER OF
COUNSEL), FOR DEFENDANT-APPELLANT.

BROWN CHIARI LLP, BUFFALO (ANGELO S. GAMBINO OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

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

Appeal from an order of the Supreme Court, Erie County (Catherine R. Nugent Panepinto, J.), entered January 19, 2022. The order denied the motions of defendants for summary judgment.

Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on May 24, 2023,

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

Entered: July 28, 2023

Ann Dillon Flynn
Clerk of the Court