

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

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CA 18-00188

PRESENT: SMITH, J.P., CENTRA, DEJOSEPH, CURRAN, AND WINSLOW, JJ.

ERICA L. NYSTROM, FORMERLY KNOWN AS ERICA L.
WATKINS, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

ROME MEMORIAL HOSPITAL, INC., BOONVILLE FAMILY
PRACTICE, DEFENDANTS-APPELLANTS,
ET AL., DEFENDANTS.

BURKE SCOLAMIERO & HURD, LLP, ALBANY (THOMAS A. CULLEN OF COUNSEL),
FOR DEFENDANTS-APPELLANTS.

SMITH, MINER, O'SHEA & SMITH, LLP, BUFFALO (CARRIE L. SMITH OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Onondaga County
(Anthony J. Paris, J.), entered May 22, 2017. The order, among other
things, directed defendant Rome Memorial Hospital, Inc. to produce
certain hospital records for in camera review.

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

Memorandum: Defendants-appellants appeal from an order
compelling defendant Rome Memorial Hospital, Inc. (Hospital) to
produce for in camera review certain hospital records. Inasmuch as
the Hospital already provided those records to Supreme Court, which
subsequently provided them to plaintiff, we dismiss the appeal as moot
because the Hospital complied with the discovery demand at issue on
this appeal. Under the circumstances, the parties' rights "will not
be directly affected by a determination of the appeal" (*Matter of
Franklin [International Bus. Machs. Corp.]*, 215 AD2d 759, 759 [2d Dept
1995]; see *Hyman v Pierce*, 145 AD3d 1224, 1224-1225 [3d Dept 2016]).

Entered: February 8, 2019

Mark W. Bennett
Clerk of the Court