

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT**

King v. Marwest, LLC

2021 NY Slip Op 08226 (App. Div. 2d Dep't 2021) · No. 2018-13787 · Decided March 17, 2021

SUMMARY

The Appellate Division, Second Department dismissed as academic the plaintiff's appeal from an order granting the defendant summary judgment in a personal injury action. The dismissal followed the court's determination in a related appeal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	William F. Mastro, A.P.J.; Robert J. Miller, J.; Colleen D. Duffy, J.; Valerie Brathwaite Nelson, J.
JURISDICTION	New York
DECIDED	March 17, 2021
DOCKET	2018-13787
DISPOSITION	dismissed
PROCEDURAL POSTURE	The plaintiff appealed from an order granting the defendant's motion for summary judgment dismissing the complaint in a personal-injury action.
PRECEDENTIAL VALUE	Published intermediate appellate opinion
PARTIES	Lisa King v. Marwest, LLC

TOPICS

mootness appellate procedure summary judgment personal injury civil procedure

PRACTICE AREAS

civil procedure personal injury appellate practice

QUESTIONS PRESENTED

1. Whether the appeal from the order granting summary judgment dismissing the personal-injury complaint should be dismissed as academic in light of the court's determination in a related appeal.

HOLDINGS

1. The appeal must be dismissed as academic in light of the Appellate Division's determination in the related appeal.

FACTUAL BACKGROUND

The action sought damages for personal injuries allegedly involving Marwest, LLC. The Supreme Court granted Marwest's motion for summary judgment and dismissed the complaint. The Appellate Division stated that its determination in a related appeal required dismissal of this appeal as academic.

PROCEDURAL HISTORY

Lisa King commenced an action to recover damages for personal injuries. The Supreme Court, Dutchess County, granted Marwest, LLC's motion for summary judgment dismissing the complaint. While this appeal was pending, the Appellate Division decided a related appeal, rendering the present appeal academic.

DISPOSITION

dismissed

CASES CITED

- King v Marwest, LLC, __ AD3d __ [Appellate Division Docket No. 2018-01726; decided herewith]
- West St. Props., LLC v American States Ins. Co., 150 AD3d 791, 792
- Dray v Staten Is. Univ. Hosp., 160 AD3d 620, 621

OPINION

PER CURIAM.

King v Marwest, LLC (2021 NY Slip Op 08226) King v Marwest, LLC 2021 NY Slip Op 08226 Decided on March 17, 2021 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on March 17, 2021 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department WILLIAM F. MASTRO, A.P.J.

ROBERT J. MILLER COLLEEN D. DUFFY VALERIE BRATHWAITE NELSON, JJ. 2018-13787 (Index No. 1364/15) [*1]Lisa King, appellant, vMarwest, LLC, respondent. Sobo & Sobo, LLP, Middletown, NY (Stephen J. Cole-Hatchard and Mark Cambareri of counsel), for appellant. Marshall Dennehey Warner Coleman & Goggin, P.C., Rye Brook, NY (Jennifer M. Meyers of counsel), for respondent.

DECISION & ORDER In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Dutchess County (Christi J. Acker, J.), dated September 19, 2018. The order granted the defendant's motion for summary judgment dismissing the complaint. ORDERED that the appeal is dismissed as academic, without costs or disbursements.

In light of this Court's determination in a related appeal from an order dated January 16, 2018 (see *King v Marwest, LLC*, __AD3d __ [Appellate Division Docket No. 2018-01726; decided herewith]), this appeal must be dismissed as academic (see *West St. Props., LLC v American States Ins. Co.*, 150 AD3d 791, 792; see also *Dray v Staten Is. Univ. Hosp.*, 160 AD3d 620, 621).

MASTRO, A.P.J., MILLER, DUFFY and BRATHWAITE NELSON, JJ., concur. ENTER:
Aprilanne Agostino Clerk of the Court