

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

Z.M. v. Kaufman

Z.M., 2026 NY Slip Op 00713 (Supreme Court of the State of New York Appellate Division Fourth Judicial Department 2026) · No. 909 CA 24-01322 · Decided February 11, 2026

SUMMARY

The New York Supreme Court, Appellate Division, Fourth Department dismissed the appeal without costs upon the parties' stipulation of discontinuance. The appeal concerned an order that had, among other things, denied in part a motion for summary judgment in a medical malpractice action.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Whalen, P.J.; Curran, J.; Montour, J.; Smith, J.; DelConte, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
DECIDED	February 11, 2026
DOCKET	909 CA 24-01322
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants appealed from an order of Supreme Court, Onondaga County, that denied in part their motion for summary judgment seeking dismissal of the complaint.
PRECEDENTIAL VALUE	published
PARTIES	Crouse Hospital, Aiwa Ono, M.D., Khanh-Hein Tran, M.D., Xue Chi, M.D. v. Z.M., an infant, by his mother and natural guardian Deborah M., Deborah M., individually

TOPICS

- appellate procedure
- civil procedure
- summary judgment

PRACTICE AREAS

- appellate procedure
- civil procedure
- health law
- medical malpractice

QUESTIONS PRESENTED

- 1. Whether the defendants' appeal should be dismissed upon the parties' stipulation of discontinuance.

KEY QUOTATIONS

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

FACTUAL BACKGROUND

The action was brought by Z.M., an infant, through his mother and natural guardian, and by Deborah M. individually, against Leah Kaufman, M.D., Crouse Hospital, Aiwa Ono, M.D., Khanh-Hein Tran, M.D., and Xue Chi, M.D. The defendants appealed from an order that denied in part their motion for summary judgment dismissing the complaint. The parties subsequently stipulated to discontinuance of the appeal.

PROCEDURAL HISTORY

The Supreme Court, Onondaga County, entered an order on July 22, 2024, denying in part defendants' motion for summary judgment. While the appeal was pending, the parties executed a stipulation of discontinuance, and the Appellate Division dismissed the appeal without costs upon stipulation.

DISPOSITION

dismissed

OPINION

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PER CURIAM.

Z.M. v Kaufman (2026 NY Slip Op 00713) Z.M. v Kaufman 2026 NY Slip Op 00713 Decided on February 11, 2026 Appellate Division, Fourth 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 February 11, 2026

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Fourth Judicial Department PRESENT: WHALEN, P.J., CURRAN, MONTOUR, SMITH, AND DELCONTE, JJ. 909 CA 24-01322 [*1]Z.M., AN INFANT, BY HIS MOTHER AND NATURAL GUARDIAN DEBORAH M., AND DEBORAH M., INDIVIDUALLY, PLAINTIFF-RESPONDENT, v LEAH KAUFMAN, M.D., ET AL., DEFENDANTS, CROUSE HOSPITAL, AIWA ONO, M.D., KHANH-HEIN TRAN, M.D., AND XUE CHI, M.D., DEFENDANTS-APPELLANTS. GALE GALE & HUNT, LLC, FAYETTEVILLE (KEVIN T. HUNT OF COUNSEL), FOR DEFENDANTS-APPELLANTS. MERSON LAW, PLLC, NEW YORK CITY (EMILY C. VAUGHT OF COUNSEL), HASAPIDIS LAW OFFICES, SOUTH SALEM (ANNETTE G. HASAPIDIS OF COUNSEL), FOR PLAINTIFF-RESPONDENT. Appeal from an order of the Supreme Court, Onondaga County

(Danielle M. Fogel, J.), entered July 22, 2024. The order, among other things, denied in part that part of a motion seeking summary judgment dismissing the complaint against defendants Crouse Hospital, Aiwa Ono, M.D., Khanh-Hein Tran, M.D. and Xue Chi, M.D. Now, upon reading and filing the stipulation of discontinuance signed by the attorneys for the parties on January 30 and February 2, 2026, It is hereby ORDERED that said appeal is unanimously dismissed without costs upon stipulation. Entered: February 11, 2026 Ann Dillon Flynn Clerk of the Court

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