

SCAN

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. F. DANA WINSLOW,

**Justice
TRIAL/IAS, PART 5
NASSAU COUNTY**

NICHOLAS WAHL and ALICE WAHL,

Plaintiffs,

MOTION DATE: 12/28/09

-against-

INDEX NO.: 009659/06

PATHMARK STORES, INC.

Defendant.

MOTION SEQ. NO.: 001

The following papers read on this motion (numbered 1):

Notice of Motion.....1

The Court automatically adjourns all motions that are submitted, without opposition for one month, to determine whether or not there was either an administrative delay or excusable neglect. Such adjournment is made without prejudice to the moving party to have the merits of such an adjournment considered in the event that there is a subsequent submission.

This is an action for personal injuries sustained by plaintiff Nicolas Wahl in a slip and fall accident occurring on July 13, 2005. A preliminary conference Order was issued by the Court on April 19, 2007. On October 26, 2007, plaintiff Nicholas Wahl passed away and consequently the action was stayed pending the issuance of letters of administration. On November 26, 2007, the Court system marked the case "disposed" which plaintiff's counsel asserts was a result of a ministerial error.

Plaintiffs now move to restore this action to active status and for an Order pursuant to CPLR §1015(a) and §1021 permitting the substitution of Alice Wahl, as Administratrix of the Estate of Nicholas Wahl upon the ground that plaintiff Nicholas Wahl is now deceased. Plaintiffs submit a copy of Limited Letters of Administration, dated May 28, 2008, appointing Alice Wahl Limited Administrator of the Estate of Nicholas Wahl. Defendant's counsel has informed the Court that defendant will not oppose the motion. Upon the foregoing papers, and after due consideration, it is

ORDERED, that the motion to restore this action to active status is **granted**; and it is further

ORDERED, that the motion to substitute Alice Wahl, as Administratrix of the Estate of Nicholas Wahl, as plaintiff in this action, in the place and stead of Nicholas Wahl is **granted**, and it is further

ORDERED, that all papers, pleadings and proceedings in this action shall be amended accordingly, and that the caption shall read as follows:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

-----X
**ALICE WAHL as Administratrix of the Estate of
NICHOLAS WAHL, and ALICE WAHL,**

Plaintiffs,

-against-

PATHMARK STORES, INC,

Defendant.
-----X

It is further ORDERED, that counsel for all parties shall appear for a compliance conference on May 25, 2010 at 9:30 a.m.

This constitutes the Order of the Court.

Dated: 3/26

, 2010


J.S.C.