

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**KELLY KIRKLAND,  
individually and on behalf of all  
others similarly situated,**

**Plaintiff,**

**v.**

**5:15-CV-1184  
(FJS/DEP)**

**SPEEDWAY LLC,**

**Defendant.**

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**ORDER OF DISMISSAL BY REASON OF SETTLEMENT**

The Mediator has advised the Court that the parties have settled or are in the process of settling this action. *See* Dkt. No. 56. A review of the Court's docket indicates that no infant or incompetent is a party to this action. Accordingly, pursuant to N.D.N.Y. L.R. 68.2(a), the Court hereby

**ORDERS** that the above-captioned action is dismissed and discontinued in its entirety, without costs, and without prejudice to the right of any party to reopen this action within thirty (30) days of the date of this Order if the settlement is not consummated. Any application to reopen this case must be filed within thirty (30) days of the date of this Order. An application to reopen filed after the expiration of this thirty-day period, unless the Court extends this period prior to its expiration, may be summarily denied solely on the basis of untimeliness; and the Court further

**ORDERS** that, if the parties wish for the Court to retain ancillary jurisdiction for the purpose of enforcing any settlement agreement, they must submit a request that the Court retain

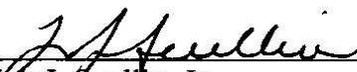
jurisdiction over enforcement of the agreement or submit the agreement to the Court for incorporation of its terms into an Order retaining jurisdiction within the above-referenced thirty (30) day period for reopening this matter; and the Court further

**ORDERS** that the dismissal of the above-captioned action shall become with prejudice on the thirty-first day following the date of this Order unless any party moves to reopen this case within thirty (30) days of the date of this Order upon a showing that the settlement was not consummated, or the Court extends the thirty (30) day period prior to its expiration; and the Court further

**ORDERS** that the Clerk of the Court shall close this case and serve a copy of this Order on the parties pursuant to the Court's Local Rules.

**IT IS SO ORDERED.**

Dated: July 28, 2017  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Judge