

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

1316

CA 12-00950

PRESENT: SMITH, J.P., PERADOTTO, CARNI, SCONIERS, AND WHALEN, JJ.

BRENDA FRANK, AS PARENT AND NATURAL GUARDIAN
OF ALAINA FRANK, AN INFANT,
PLAINTIFF-APPELLANT-RESPONDENT,

V

ORDER

THE ROCHESTER GENERAL HOSPITAL, DOING BUSINESS
AS ROCHESTER GENERAL HOSPITAL,
DEFENDANT-RESPONDENT-APPELLANT,
ET AL., DEFENDANTS.

HOGAN WILLIG, AMHERST (JENNIFER L. FAY OF COUNSEL), FOR
PLAINTIFF-APPELLANT-RESPONDENT.

BROWN & TARANTINO, LLC, ROCHESTER (JEFFREY S. ALBANESE OF COUNSEL),
FOR DEFENDANT-RESPONDENT-APPELLANT.

Appeal and cross appeal from an order of the Supreme Court,
Monroe County (Thomas A. Stander, J.), entered September 9, 2011. The
order denied the motion of plaintiff to strike the answer of defendant
The Rochester General Hospital, doing business as Rochester General
Hospital, and ordered that an adverse inference charge shall be given
at trial.

It is hereby ORDERED that the order so appealed from is
unanimously affirmed without costs (*see Coleman v Putnam Hosp. Ctr.*,
74 AD3d 1009, *lv dismissed* 15 NY3d 857, 16 NY3d 884).

Entered: December 21, 2012

Frances E. Cafarell
Clerk of the Court