

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

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CA 10-00181

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, LINDLEY, AND PINE, JJ.

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GILBERT H. ALLEN, AS ADMINISTRATOR OF THE ESTATE  
OF WARREN D. ALLEN, DECEASED, PLAINTIFF-APPELLANT,

V

ORDER

KALEIDA HEALTH, DOING BUSINESS AS DEGRAFF  
MEMORIAL HOSPITAL, NIAGARA LUTHERAN HOME AND  
REHABILITATION CENTER, INC., AND THE MCQUIRE  
GROUP, INDIVIDUALLY AND DOING BUSINESS AS  
NORTHGATE HEALTH CARE FACILITY,  
DEFENDANTS-RESPONDENTS.

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SIEGEL, KELLEHER & KAHN, LLP, BUFFALO (ROBERT D. STEINHAUS OF  
COUNSEL), FOR PLAINTIFF-APPELLANT.

UNDERBERG & KESSLER, LLP, ROCHESTER (MARGARET E. SOMERSET OF COUNSEL),  
FOR DEFENDANT-RESPONDENT NIAGARA LUTHERAN HOME AND REHABILITATION  
CENTER, INC.

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Appeal from an order of the Supreme Court, Niagara County  
(Richard C. Kloch, Sr., A.J.), entered March 10, 2009. The order,  
insofar as appealed from, denied in part plaintiff's motion to compel  
disclosure and for sanctions.

It is hereby ORDERED that the order so appealed from is  
unanimously affirmed without costs.

Entered: June 11, 2010

Patricia L. Morgan  
Clerk of the Court