

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

1532

CA 09-00631

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

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IN THE MATTER OF THE APPLICATION OF DONALD L.L.,  
PETITIONER-APPELLANT, FOR THE APPOINTMENT OF A  
GUARDIAN OF THE PERSON AND PROPERTY OF JESSIE  
D.L., AN ALLEGED INCAPACITATED PERSON.

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ROBERT J. MICELI, RESPONDENT.  
(APPEAL NO. 1.)

ORDER

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IN THE MATTER OF THE APPLICATION OF DONALD L.L.,  
PETITIONER-APPELLANT, FOR THE APPOINTMENT OF A  
GUARDIAN OF THE PERSON AND PROPERTY OF JESSIE  
D.L., AN ALLEGED INCAPACITATED PERSON.

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ROBERT J. MICELI, RESPONDENT.  
(APPEAL NO. 2.)

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ROBERT J. MICELI, AS GUARDIAN OF THE PERSON AND  
PROPERTY OF JESSIE D.L., PLAINTIFF-RESPONDENT,

V

DONALD L.L. AND PATRICIA FITZGERALD,  
DEFENDANTS-APPELLANTS.  
(APPEAL NO. 3.)

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FRANK A. ALOI, ROCHESTER, FOR PETITIONER-APPELLANT AND DEFENDANTS-  
APPELLANTS.

LAW OFFICES OF RICHARD A. KROLL, ROCHESTER (RICHARD A. KROLL OF  
COUNSEL), PARKER LAW OFFICE, PLLC, FOR RESPONDENT AND PLAINTIFF-  
RESPONDENT.

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Appeal from an order and judgment (one paper) of the Supreme  
Court, Monroe County (David Michael Barry, J.), entered April 21,  
2008. The order and judgment, inter alia, appointed a guardian for  
the person and property of the incapacitated person.

It is hereby ORDERED that said appeal is unanimously dismissed  
with costs (*see Matter of Cherilyn P.*, 192 AD2d 1084, *lv denied* 82  
NY2d 652; *see also CPLR 5511*).

Entered: February 10, 2011

Patricia L. Morgan  
Clerk of the Court