

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

**491**

**CA 10-01210**

PRESENT: SCUDDER, P.J., FAHEY, CARNI, SCONIERS, AND MARTOCHE, JJ.

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DONALD J. SHARKEY, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

JOSEPH LIN-YUN CHOW, M.D., CELESTINE J. SZULEWSKI, P.A., SPRINGVILLE PEDIATRICS AND ADULT CARE, AND RONALD G. BASALYGA, M.D., DEFENDANTS-RESPONDENTS.  
(APPEAL NO. 1.)

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LAW OFFICES OF LINDA J. MARSH AND ARTHUR J. ZILLER, BUFFALO (ARTHUR ZILLER OF COUNSEL), FOR PLAINTIFF-APPELLANT.

CARTER, CONBOY, CASE, BLACKMORE, MALONEY & LAIRD, P.C., ALBANY (ADAM H. COOPER OF COUNSEL), FOR DEFENDANTS-RESPONDENTS JOSEPH LIN-YUN CHOW, M.D., CELESTINE J. SZULEWSKI, P.A., AND SPRINGVILLE PEDIATRICS AND ADULT CARE.

DAMON MOREY LLP, BUFFALO, MEISELMAN, DENLEA, PACKMAN, CARTON & EBERZ, P.C., WHITE PLAINS (MYRA I. PACKMAN OF COUNSEL), FOR DEFENDANT-RESPONDENT RONALD G. BASALYGA, M.D.

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Appeal from an order of the Supreme Court, Erie County (Christopher J. Burns, J.), entered December 1, 2009 in a medical malpractice action. The order denied the motion of plaintiff to strike defendants' joint answer.

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

Same Memorandum as in *Sharkey v Chow* ([appeal No. 2] \_\_\_ AD3d \_\_\_ [May 6, 2011]).

Entered: May 6, 2011

Patricia L. Morgan  
Clerk of the Court