

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

691

CA 10-00436

PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, GORSKI, AND MARTOCHE, JJ.

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WALDEMAR H. JURKOWSKI, BY EDWARD C. COSGROVE,  
GUARDIAN OF HIS PERSON AND PROPERTY,  
PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

SHEEHAN MEMORIAL HOSPITAL, DEFENDANT-RESPONDENT,  
ET AL., DEFENDANTS.  
(APPEAL NO. 3.)

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EDWARD C. COSGROVE, BUFFALO (PHILIP H. MAGNER, JR., OF THE FLORIDA  
BAR, ADMITTED PRO HAC VICE, OF COUNSEL), FOR PLAINTIFF-APPELLANT.

ROACH, BROWN, MCCARTHY & GRUBER, P.C., BUFFALO (JOSEPH V. MCCARTHY OF  
COUNSEL), FOR DEFENDANT-RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County (Joseph D. Mintz, J.), entered January 21, 2010 in a medical malpractice action. The judgment, inter alia, dismissed the second amended complaint against defendant Sheehan Memorial Hospital.

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

Same Memorandum as in *Jurkowski v Sheehan Mem. Hosp.* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [June 17, 2011]).

Entered: June 17, 2011

Patricia L. Morgan  
Clerk of the Court