

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

1030

CA 11-00662

PRESENT: CENTRA, J.P., FAHEY, SCONIERS, GREEN, AND MARTOCHE, JJ.

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ERICA L. NIEMANN AND DANIEL ELLIS, AS  
CO-ADMINISTRATORS OF THE ESTATE OF TIMOTHY W.  
NIEMANN, DECEASED, PLAINTIFFS-APPELLANTS,

V

ORDER

ST. JOSEPH'S HOSPITAL HEALTH CENTER, RONALD  
CAPUTO, M.D., SJH CARDIOLOGY ASSOCIATES,  
DEFENDANTS-RESPONDENTS,  
ET AL., DEFENDANTS.

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GROSS, SHUMAN, BRIZDLE & GILFILLAN, P.C., BUFFALO (DAVID H. ELIBOL OF  
COUNSEL), FOR PLAINTIFFS-APPELLANTS.

HANCOCK ESTABROOK, LLP, SYRACUSE (MAUREEN E. MANEY OF COUNSEL), FOR  
DEFENDANT-RESPONDENT ST. JOSEPH'S HOSPITAL HEALTH CENTER.

MARTIN, GANOTIS, BROWN, MOULD & CURRIE, P.C., DEWITT (BRIAN M. GARGANO  
OF COUNSEL), FOR DEFENDANTS-RESPONDENTS RONALD CAPUTO, M.D. AND SJH  
CARDIOLOGY ASSOCIATES.

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Appeal from an order of the Supreme Court, Onondaga County  
(Deborah H. Karalunas, J.), entered January 11, 2011 in a wrongful  
death action. The order denied the motion of plaintiffs to vacate a  
stipulation of discontinuance.

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

Entered: September 30, 2011

Patricia L. Morgan  
Clerk of the Court