

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

**1491**

**CA 12-00513**

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

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MARK HESS AND GAIL HESS, INDIVIDUALLY AND AS  
PARENTS AND NATURAL GUARDIANS OF MARILYN HESS,  
AN INFANT, PLAINTIFFS-APPELLANTS,

V

ORDER

GARY NELSON AND LYNN NELSON,  
DEFENDANTS-RESPONDENTS.

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THE CAREY FIRM, LLC, GRAND ISLAND (DALE J. BAUMAN OF COUNSEL), FOR  
PLAINTIFFS-APPELLANTS.

LAW OFFICES OF LAURIE G. OGDEN, BUFFALO (TARA E. WATERMAN OF COUNSEL),  
FOR DEFENDANTS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (Patrick H. NeMoyer, J.), entered December 16, 2011. The order granted the motion of defendants for summary judgment and dismissed the complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: December 21, 2012

Frances E. Cafarell  
Clerk of the Court