

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

**736**

**CA 11-02384**

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND SCONIERS, JJ.

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JOHN CHRISTODOULIDES, M.D.,  
PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

FIRST UNUM LIFE INSURANCE COMPANY,  
DEFENDANT,  
AND LIFE INSURANCE COMPANY OF BOSTON AND  
NEW YORK, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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PHILLIPS LYTTLE LLP, BUFFALO (PAUL K. STECKER OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

GROSS, SHUMAN, BRIZDLE & GILFILLAN, P.C., BUFFALO (HUGH C. CARLIN OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County (Joseph R. Glownia, J.), entered November 17, 2011. The judgment awarded plaintiff money damages against defendant Life Insurance Company of Boston and New York.

It is hereby ORDERED that the judgment so appealed from is unanimously vacated and the same order as in *Christodoulides v First Unum Life Ins. Co.* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [June 15, 2012]) is further modified on the law by denying that part of plaintiff's cross motion against defendant Life Insurance Company of Boston and New York, and by vacating the declaration and the award of damages against that defendant, and as further modified the order is affirmed without costs.

Same Memorandum as in *Christodoulides v First Unum Life Ins. Co.* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [June 15, 2012]).

Entered: June 15, 2012

Frances E. Cafarell  
Clerk of the Court