

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

**418**

**CA 19-01790**

PRESENT: SMITH, J.P., CARNI, LINDLEY, CURRAN, AND DEJOSEPH, JJ.

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BRYAN MERRY, AS ADMINISTRATOR OF THE ESTATE OF  
NANCY MERRY, DECEASED,  
PLAINTIFF-APPELLANT-RESPONDENT,

V

ORDER

FRANK J. EDWARDS, M.D., ET AL., DEFENDANTS,  
ALICIA S. CALAGIOVANNI, AS PUBLIC ADMINISTRATRIX  
OF THE ESTATE OF DONALD L. JACKSON, M.D., AND  
THE MEMORIAL HOSPITAL OF WILLIAM F. AND GERTRUDE F.  
JONES, INC., DEFENDANTS-RESPONDENTS-APPELLANTS.

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RICHARD P. VALENTINE, ESQ., P.C., BUFFALO (RICHARD P. VALENTINE OF  
COUNSEL), FOR PLAINTIFF-APPELLANT-RESPONDENT.

COLUCCI & GALLAHER, P.C., BUFFALO (MARYLOU K. ROSHIA OF COUNSEL), FOR  
DEFENDANTS-RESPONDENTS-APPELLANTS.

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Appeal and cross appeal from an order of the Supreme Court,  
Allegany County (Thomas P. Brown, A.J.), entered February 8, 2019.  
The order, inter alia, denied in part the motion of defendants Alicia  
S. Calagiovanni, as public administratrix of the estate of Donald L.  
Jackson, M.D., and the Memorial Hospital of William F. and Gertrude F.  
Jones, Inc., for summary judgment dismissing the complaint against  
them and denied the motion of plaintiff for partial summary judgment.

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: June 12, 2020

Mark W. Bennett  
Clerk of the Court