

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

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CA 24-00348

PRESENT: LINDLEY, J.P., CURRAN, OGDEN, DELCONTE, AND KEANE, JJ.

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KENNETH HEINRICH, INDIVIDUALLY AND AS  
ADMINISTRATOR OF THE ESTATE OF DAVID ALAN  
HEINRICH, DECEASED, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

KELLEY A. SERENS, N.P., ET AL., DEFENDANTS,  
AND LYNN MARIE CLEARY, M.D., DEFENDANT-RESPONDENT.  
(APPEAL NO. 3.)

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SIDNEY P. COMINSKY, LLC, JAMESVILLE (SIDNEY P. COMINSKY OF COUNSEL),  
FOR PLAINTIFF-APPELLANT.

GALE GALE & HUNT, LLC, FAYETTEVILLE (KEVIN T. HUNT OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from a judgment of the Supreme Court, Onondaga County  
(Joseph E. Lamendola, J.), entered February 22, 2024. The judgment  
dismissed the amended complaint against defendant Lynn Marie Cleary,  
M.D.

It is hereby ORDERED that the judgment so appealed from is  
unanimously reversed on the law without costs, the amended complaint  
is reinstated against defendant Lynn Marie Cleary, M.D., and a new  
trial is granted.

Same memorandum as in *Heinrich v Serens* ([appeal No. 1] – AD3d –  
[July 25, 2025] [4th Dept 2025]).

Entered: July 25, 2025

Ann Dillon Flynn  
Clerk of the Court