

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

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CA 25-00388

PRESENT: MONTOUR, J.P., SMITH, GREENWOOD, NOWAK, AND KEANE, JJ.

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KATHLEEN GUMKOWSKI, AS ADMINISTRATOR OF  
THE ESTATE OF GREGORY GUMKOWSKI, DECEASED,  
AND KATHLEEN GUMKOWSKI, INDIVIDUALLY,  
PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

THOMAS SCHWAAB, M.D., MEGHAN KURTZ, P.A.,  
CHRISTINE PIERI, R.N., DEFENDANTS-APPELLANTS,  
ET AL., DEFENDANTS.

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HURWITZ & FINE, P.C., BUFFALO (V. CHRISTOPHER POTENZA OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS.

THE DEMPSEY FIRM PLLC, BUFFALO (CATHERINE B. DEMPSEY OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (John B. Licata, J.), entered July 25, 2024, in a medical malpractice action. The order, insofar as appealed from, denied that part of the motion of defendants Thomas Schwaab, M.D., Meghan Kurtz, P.A., and Christine Pieri, R.N. for summary judgment dismissing the complaint and cross-claims against them.

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

Same memorandum as in *Gumkowski v Schwaab* ([appeal No. 2] – AD3d – [Dec. 23, 2025] [4th Dept 2025]).

Entered: December 23, 2025

Ann Dillon Flynn  
Clerk of the Court