

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

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**CA 24-01644**

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

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IN THE MATTER OF THE ARCHIE J. MIELTY REVOCABLE  
TRUST DATED OCTOBER 12, 2010, AND ITS AMENDMENT  
DATED JUNE 30, 2021.

MEMORANDUM AND ORDER

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JAMES V. MIELTY, PETITIONER-APPELLANT;

JOHN E. MIELTY, RESPONDENT-RESPONDENT.  
(APPEAL NO. 2.)

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BOUSQUET HOLSTEIN PLLC, SYRACUSE (CECELIA R. CANNON OF COUNSEL), FOR  
PETITIONER-APPELLANT.

CROSSMORE & TIFFANY, ITHACA (EDWARD Y. CROSSMORE OF COUNSEL), FOR  
RESPONDENT-RESPONDENT.

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Appeal from an order of the Surrogate's Court, Seneca County  
(Barry L. Porsch, S.), entered September 6, 2024, in a proceeding  
pursuant to Surrogate's Court Procedure Act § 2102. The order denied  
the motion of petitioner for summary judgment, granted the cross-  
motion of respondent for summary judgment and determined that the  
subject trust was lawfully amended.

It is hereby ORDERED that the order so appealed from is  
unanimously modified on the law by vacating the determination to  
dismiss that part of the petition alleging undue influence,  
reinstating the petition to that extent, and vacating the third  
ordering paragraph and, as modified, the order is affirmed without  
costs. Same memorandum as in *Matter of Mielty* ([appeal No. 1] – AD3d  
– [June 5, 2026] [4th Dept 2026]).

Entered: June 5, 2026

Ann Dillon Flynn  
Clerk of the Court