

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

**1091**

**CA 20-00267**

PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, CURRAN, AND BANNISTER, JJ.

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NORMAN K., INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF DANIELLE K., DECEASED, AND AS PARENT AND NATURAL GUARDIAN OF DEVYN K., BRIANE M., AND TYLER A.M., PLAINTIFF-APPELLANT,

V

ORDER

ALAN POSNER, M.D., KALEIDA HEALTH, INDIVIDUALLY AND DOING BUSINESS AS BUFFALO GENERAL HOSPITAL, AND AS BARIATRIC PROGRAM, AND AS MINIMALLY INVASIVE SURGERY, AND AS WEIGHT LOSS PROGRAM, UNIVERSITY OF BUFFALO SURGEONS, INC., DEFENDANTS-RESPONDENTS, MARY BROWN, ET AL., DEFENDANTS.

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VINAL & VINAL, P.C., BUFFALO (JEANNE M. VINAL OF COUNSEL), FOR PLAINTIFF-APPELLANT.

GIBSON, MCASKILL & CROSBY, LLP, BUFFALO (AMANDA C. ROSSI OF COUNSEL), FOR DEFENDANTS-RESPONDENTS ALAN POSNER, M.D. AND UNIVERSITY OF BUFFALO SURGEONS, INC.

ROACH, BROWN, MCCARTHY & GRUBER, P.C., BUFFALO (KATE LORRAINE HARTMAN OF COUNSEL), FOR DEFENDANT-RESPONDENT KALEIDA HEALTH, INDIVIDUALLY AND DOING BUSINESS AS BUFFALO GENERAL HOSPITAL, AND AS BARIATRIC PROGRAM, AND AS MINIMALLY INVASIVE SURGERY, AND AS WEIGHT LOSS PROGRAM.

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Appeal from an order of the Supreme Court, Erie County (Frederick J. Marshall, J.), dated January 27, 2020. The order granted the motion of defendant Kaleida Health, individually and doing business as Buffalo General Hospital, and as Bariatric Program, and as Minimally Invasive Surgery, and as Weight Loss Program for leave to reargue its opposition to plaintiff's motion to compel disclosure and, upon reargument, denied plaintiff's motion to compel disclosure of a particular document.

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

Entered: December 23, 2021

Ann Dillon Flynn  
Clerk of the Court