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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 60 SSM 36
In the Matter of the Estate of
Muriel M. Nealon, Deceased.

Christopher J. Nealon, as
Executor of the Estate of Muriel
M. Nealon, Deceased,
Appellant;
Peter J. Nealon,
Respondent;
Tracey McGann, Now Known as
Tracey Nealon,
Respondent.

Submitted by Nicholas E. Tishler, for appellant.
Submitted by Peter G. Barber, for respondent.

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On review of submissions pursuant to section 500.11 of the Rules,
order affirmed, with costs, and judgment absolute dismissing the
petition granted upon petitioner's stipulation. The Appellate
Division correctly determined that the issue whether a
confidential relationship existed should have been submitted to
the jury. Chief Judge Lippman and Judges Graffeo, Read, Smith,
Pigott, Rivera and Abdus-Salaam concur.

Decided January 9, 2014