

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

1238

**CA 10-00374**

PRESENT: SMITH, J.P., LINDLEY, SCONIERS, PINE, AND GORSKI, JJ.

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RICHARD WINIARSKI AND CATHLEEN WINIARSKI,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

LINDA HARRIS, M.D., UNIVERSITY AT BUFFALO  
SURGEONS, INC., DEFENDANTS-APPELLANTS,  
ET AL., DEFENDANTS.  
(APPEAL NO. 1.)

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BROWN & TARANTINO, LLC, BUFFALO (ANN M. CAMPBELL OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS.

STAMM, REYNOLDS & STAMM, WILLIAMSVILLE (GREGORY STAMM OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (Frank A. Sedita, Jr., J.), entered January 12, 2010 in a medical malpractice action. The order granted the application of defendants Linda Harris, M.D. and University at Buffalo Surgeons, Inc. for a collateral source reduction of an award of damages.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Smith v Catholic Med. Ctr. of Brooklyn & Queens*, 155 AD2d 435; *see also* CPLR 5501 [a] [1]).

Entered: November 12, 2010

Patricia L. Morgan  
Clerk of the Court