

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

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**CA 11-00813**

PRESENT: SCUDDER, P.J., SMITH, FAHEY, CARNI, AND SCONIERS, JJ.

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MARGUERITE JAMES, PLAINTIFF-APPELLANT,

V

ORDER

DAVID WORMUTH, M.D. AND CNY THORACIC  
SURGERY, P.C., DEFENDANTS-RESPONDENTS.  
(APPEAL NO. 1.)

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WOODRUFF LEE CARROLL, SYRACUSE, FOR PLAINTIFF-APPELLANT.

MARTIN, GANOTIS, BROWN, MOULD & CURRIE, P.C., DEWITT (DANIEL P. LARABY  
OF COUNSEL), FOR DEFENDANTS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Onondaga County (Brian F. DeJoseph, J.), entered January 11, 2011 in a medical malpractice action. The order granted the motion of defendants at the close of plaintiff's proof to dismiss the amended complaint.

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: March 23, 2012

Frances E. Cafarell  
Clerk of the Court