

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

**955**

**CA 16-01353**

PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CARNI, JJ.

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JASON KIRCHNER, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

COUNTY OF NIAGARA, CLAUDETTE CALDWELL, COUNTY OF ERIE, JAMES J. WOYTASH, M.D., AND UNIVERSITY AT BUFFALO PATHOLOGISTS, INC., DEFENDANTS-RESPONDENTS.  
(APPEAL NO. 2.)

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HOGAN WILLIG, PLLC, AMHERST (STEVEN M. COHEN OF COUNSEL), FOR PLAINTIFF-APPELLANT.

FELDMAN KIEFFER, LLP, BUFFALO (MATTHEW J. KIBLER OF COUNSEL), FOR DEFENDANTS-RESPONDENTS JAMES J. WOYTASH, M.D., AND UNIVERSITY AT BUFFALO PATHOLOGISTS, INC.

MICHAEL A. SIRAGUSA, COUNTY ATTORNEY, BUFFALO (SHAWN P. HENNESSY OF COUNSEL), FOR DEFENDANT-RESPONDENT COUNTY OF ERIE.

GIBSON, MCASKILL & CROSBY, LLP, BUFFALO (MICHAEL J. WILLET OF COUNSEL), FOR DEFENDANTS-RESPONDENTS COUNTY OF NIAGARA AND CLAUDETTE CALDWELL.

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Appeal from an order of the Supreme Court, Niagara County (Mark Montour, J.), entered April 25, 2016. The order, among other things, denied plaintiff's motion for leave to reargue and/or renew his opposition to the motions of defendants for summary judgment.

It is hereby ORDERED that said appeal from the order insofar as it denied leave to reargue is unanimously dismissed and the order is affirmed without costs.

Same memorandum as in *Kirchner v County of Niagara* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [Sept. 29, 2017]).

Entered: September 29, 2017

Mark W. Bennett  
Clerk of the Court