

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

480

CA 22-01507

PRESENT: PERADOTTO, J.P., BANNISTER, MONTOUR, AND GREENWOOD, JJ.

EMMETT HARRIS, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

ROME MEMORIAL HOSPITAL, THOMAS K. WEIDMAN, M.D.,
INDIVIDUALLY AND AS AN AGENT, OFFICER, AND/OR
EMPLOYEE OF UPSTATE UNIVERSITY HOSPITAL AND/OR
UPSTATE EMERGENCY MEDICINE, INC., UPSTATE
EMERGENCY MEDICINE, INC., JOHN ELLIS, M.D.,
INDIVIDUALLY AND AS AN AGENT, OFFICER AND/OR
EMPLOYEE OF ROME MEDICAL RADIOLOGY, DOING BUSINESS
AS RADIOLOGY ASSOCIATES OF NEW HARTFORD, LLP,
RADIOLOGY ASSOCIATES OF NEW HARTFORD, LLP,
DEFENDANTS-APPELLANTS,
ET AL., DEFENDANTS.
(APPEAL NO. 2.)

GALE GALE & HUNT, LLC, FAYETTEVILLE (ANDREW R. BORELLI OF COUNSEL),
FOR DEFENDANT-APPELLANT ROME MEMORIAL HOSPITAL.

SUGARMAN LAW FIRM, LLP, SYRACUSE (CORY J. SCHOONMAKER OF COUNSEL), FOR
DEFENDANTS-APPELLANTS THOMAS K. WEIDMAN, M.D., AND UPSTATE EMERGENCY
MEDICINE, INC.

MARTIN, GANOTIS, BROWN, MOULD & CURRIE, P.C., DEWITT (CAYLEY M. YOUNG
OF COUNSEL), FOR DEFENDANTS-APPELLANTS JOHN ELLIS, M.D., AND RADIOLOGY
ASSOCIATES OF NEW HARTFORD, LLP.

CHERUNDOLO LAW FIRM, PLLC, SYRACUSE (JOHN C. CHERUNDOLO OF COUNSEL),
FOR PLAINTIFF-RESPONDENT.

Appeals from an order of the Supreme Court, Oneida County (Scott J. DelConte, J.), entered September 21, 2022. The order, among other things, granted plaintiff's motion insofar as it sought to preclude certain defendants from offering evidence or arguing at the time of trial that the nonparty providers affiliated with Upstate University Hospital caused or contributed to plaintiff's injuries and from listing the nonparty providers on the verdict sheet.

It is hereby ORDERED that said appeal from the order insofar as it relates to the second, sixth, and seventh ordering paragraphs is unanimously dismissed and the order is modified on the law by denying the motion insofar as it sought to preclude certain defendants from offering evidence or arguing at the time of trial that the nonparty

providers affiliated with Upstate University Hospital caused or contributed to plaintiff's injuries and from listing the nonparty providers on the verdict sheet and as modified the order is affirmed without costs.

Same memorandum as in *Harris v Rome Mem. Hosp.* ([appeal No. 1] - AD3d - [Aug. 11, 2023] [4th Dept 2023]).

Entered: August 11, 2023

Ann Dillon Flynn
Clerk of the Court