

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

1150

**CA 14-00672**

PRESENT: CENTRA, J.P., FAHEY, SCONIERS, WHALEN, AND DEJOSEPH, JJ.

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KATHLEEN CORRADO, INDIVIDUALLY AND AS PARENT  
AND NATURAL GUARDIAN OF LUCAS DELGATTO, INFANT,  
PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

CHoudary DAVULURI, M.D., ST. JOSEPH'S HOSPITAL  
HEALTH CENTER'S MATERNAL CHILD HEALTH CENTER AND  
ST. JOSEPH'S HOSPITAL HEALTH CENTER,  
DEFENDANTS-APPELLANTS.

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MARTIN, GANOTIS, BROWN, MOULD & CURRIE, P.C., DEWITT (DANIEL P. LARABY  
OF COUNSEL), FOR DEFENDANT-APPELLANT CHoudary DAVULURI, M.D.

HANCOCK ESTABROOK, LLP, SYRACUSE (ASHLEY D. HAYES OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS ST. JOSEPH'S HOSPITAL HEALTH CENTER'S MATERNAL  
CHILD HEALTH CENTER AND ST. JOSEPH'S HOSPITAL HEALTH CENTER.

DEFrancisco & FALGIANTANO LAW FIRM, SYRACUSE (CHARLES L. FALGIATANO OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeals from an order of the Supreme Court, Onondaga County  
(Donald A. Greenwood, J.), entered June 25, 2013. The order denied  
the motion of defendants for a directed verdict.

It is hereby ORDERED that said appeals are unanimously dismissed  
without costs.

Memorandum: Defendants appeal from an order denying their motion  
for a directed verdict at the close of plaintiff's case (see CPLR  
4401). The jury was unable to reach a verdict after the close of  
evidence, and Supreme Court declared a mistrial. The appeals must be  
dismissed. The court's order denying the motion for a directed  
verdict embodies "determinations in the nature of rulings by the court  
during the trial and is not appealable" (*Covell v H.R.H. Constr.  
Corp.*, 24 AD2d 566, 567, *affd* 17 NY2d 709; see *Kinker v 6409-20th Ave.  
Realty Corp.*, 28 AD2d 907, 908, *appeal dismissed* 20 NY2d 796; see also  
*Kemp v Lynch*, 283 AD2d 934, 934), either as of right or by permission  
(see *Radford v Sheridan Prods.*, 181 AD2d 667, 668).

Entered: November 21, 2014

Frances E. Cafarell  
Clerk of the Court