

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

546

CA 21-00800

PRESENT: PERADOTTO, J.P., LINDLEY, NEMOYER, CURRAN, AND WINSLOW, JJ.

JOHN M. BRAXTON, AS ADMINISTRATOR OF THE ESTATE OF
SHEILA M. BRAXTON, DECEASED, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

ERIE COUNTY MEDICAL CENTER CORPORATION, ET AL.,
DEFENDANTS,
UNIVERSITY EMERGENCY MEDICAL SERVICES, INC., AND
ANDREW POREDA, M.D., DEFENDANTS-RESPONDENTS.
(APPEAL NO. 2.)

LAW OFFICE OF J. MICHAEL HAYES, BUFFALO (J. MICHAEL HAYES OF COUNSEL),
FOR PLAINTIFF-APPELLANT.

EAGAN & HEIMER, PLLC, BUFFALO (JAMES E. EAGAN OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS.

Appeal from an order of the Supreme Court, Erie County (Frederick J. Marshall, J.), entered May 13, 2021. The order granted in part the motion of defendants University Emergency Medical Services, Inc. and Andrew Poreda, M.D., for summary judgment.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by denying those parts of the motion of defendants University Emergency Medical Services, Inc. and Andrew Poreda, M.D. with respect to the claims and cross claims against those defendants related to the alleged failure of Andrew Poreda, M.D. to consult with the family members of plaintiff's decedent and to review a report of November 18, 2013, order a neurological consult, order appropriate lab studies, and monitor decedent's vitals; and with respect to the claims and cross claims against University Emergency Medical Services, Inc. based on the alleged negligence of its staff (other than Andrew Poreda, M.D. and defendant Joseph Riedy, D.O.) related to decedent's care in November 2013, and reinstating those claims and cross claims to that extent and as modified the order is affirmed without costs. Same memorandum as in *Braxton v Erie County Med. Ctr. Corp.* ([appeal No. 1] – AD3d – [Aug. 4, 2022] [4th Dept 2022]).

Entered: August 4, 2022

Ann Dillon Flynn
Clerk of the Court