

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

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CA 22-01746

PRESENT: SMITH, J.P., CURRAN, MONTOUR, GREENWOOD, AND NOWAK, JJ.

CHRISTOPHER SMITH AND MICHAEL SMITH, AS TRUSTEES
OF THE JAY AND PATRICIA SMITH IRREVOCABLE TRUST,
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

ANNA J. SMITH, AS TRUSTEE OF THE THEODORE P. SMITH
INCOME ONLY IRREVOCABLE TRUST, AND AS EXECUTOR OF
THE ESTATE OF THEODORE P. SMITH, DECEASED,
DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

HANCOCK ESTABROOK, LLP, SYRACUSE (JANET D. CALLAHAN OF COUNSEL), FOR
DEFENDANT-APPELLANT.

BOND SCHOENECK & KING, PLLC, SYRACUSE (DANIEL J. PAUTZ OF COUNSEL),
FOR PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Herkimer County (John H. Crandall, A.J.), entered January 31, 2022. The order, inter alia, denied the motion of defendant for an evidentiary hearing on, inter alia, the partition of real property.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Same memorandum as in *Smith v Smith* ([appeal No. 4] - AD3d - [May 3, 2024] [4th Dept 2024]).

Entered: May 3, 2024

Ann Dillon Flynn
Clerk of the Court