

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

1106

CA 17-02004

PRESENT: CENTRA, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND WINSLOW, JJ.

RICHARD H. WARNER, INDIVIDUALLY, AND AS
GUARDIAN OF MARY DOROTHY WARNER, AN
INCAPACITATED PERSON, CLAIMANT-APPELLANT,

V

ORDER

STATE OF NEW YORK, DEFENDANT-RESPONDENT.
(CLAIM NO. 098768.)

RICHARD H. WARNER, AS EXECUTOR OF THE ESTATE
OF MARY DOROTHY WARNER, DECEASED,
CLAIMANT-APPELLANT,

V

STATE OF NEW YORK, DEFENDANT-RESPONDENT.
(CLAIM NO. 105712.)
(APPEAL NO. 3.)

THE COSGROVE LAW FIRM, BUFFALO (EDWARD C. COSGROVE OF COUNSEL), FOR
CLAIMANT-APPELLANT.

BARBARA D. UNDERWOOD, ATTORNEY GENERAL, ALBANY (BRIAN D. GINSBURG OF
COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Court of Claims (J. David Sampson,
J.), entered May 31, 2017. The order denied the motion of claimant to
set aside judgments pursuant to CPLR 4404 (b).

It is hereby ORDERED that said appeal is unanimously dismissed
without costs (*see Smith v Catholic Med. Ctr. of Brooklyn & Queens*,
155 AD2d 435, 435 [2d Dept 1989]; *see also* CPLR 5501 [a] [1], [2]).

Entered: November 9, 2018

Mark W. Bennett
Clerk of the Court