

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

**1139**

**CA 17-01841**

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, CURRAN, AND TROUTMAN, JJ.

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DAWN CALHOUN, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

COUNTY OF HERKIMER, ET AL., DEFENDANTS,  
AND JEFF WHITTEMORE, IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY, DEFENDANT-RESPONDENT.  
(APPEAL NO. 2.)

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BOSMAN LAW FIRM, LLC, ROME (A.J. BOSMAN OF COUNSEL), FOR  
PLAINTIFF-APPELLANT.

JOHNSON & LAWS, LLC, CLIFTON PARK (GREGG T. JOHNSON OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Herkimer County (Erin P. Gall, J.), entered July 18, 2017. The order granted the motion of defendant Jeff Whittemore for attorneys' fees.

It is hereby ORDERED that the order so appealed from is unanimously reversed on the law without costs and the motion is denied.

Same memorandum as in *Calhoun v County of Herkimer* ([appeal No. 1] – AD3d – [Feb. 8, 2019] [4th Dept 2019]).

Entered: February 8, 2019

Mark W. Bennett  
Clerk of the Court