

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

992

CA 22-01747

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

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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. 2.)

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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.

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Appeal from an order of the Supreme Court, Herkimer County (John  
H. Crandall, A.J.), entered June 17, 2022. The order, inter alia,  
ordered the public sale of certain 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