

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

1349

CA 10-00411

PRESENT: SMITH, J.P., FAHEY, LINDLEY, SCONIERS, AND GORSKI, JJ.

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ANNE M. ROMANELLO AND JOHN ROMANELLO,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

KENNETH S. FINLAY, DEFENDANT-APPELLANT.

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GIBSON, MCASKILL & CROSBY, LLP, BUFFALO (VICTOR ALAN OLIVERI OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

PAUL WILLIAM BELTZ, P.C., BUFFALO (ROBERT B. NICHOLS OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (Timothy J. Drury, J.), entered October 21, 2009 in a personal injury action. The order denied the motion of defendant for summary judgment dismissing the complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs (*see Frizzell v Giannetti*, 34 AD3d 1202, 1203; *House v Thornton*, 32 AD3d 1172).

Entered: November 12, 2010

Patricia L. Morgan  
Clerk of the Court