

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

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**CA 09-00187**

PRESENT: SMITH, J.P., PERADOTTO, CARNI, PINE, AND GORSKI, JJ.

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CONWAY BEAM LEASING, INC., PLAINTIFF-RESPONDENT,

V

ORDER

SHERMAR, INC., DEFENDANT-APPELLANT,  
ET AL., DEFENDANTS.

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ANN W. MANION, UTICA, FOR DEFENDANT-APPELLANT.

KENNETH D. LICHT, ROCHESTER (KEITH E. O'TOOLE OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Monroe County  
(Thomas A. Stander, J.), entered April 28, 2008. The order denied  
the motion of defendant Shermar, Inc. seeking leave to reargue its  
opposition to plaintiff's motion for summary judgment.

It is hereby ORDERED that said appeal is unanimously dismissed  
without costs (*see Empire Ins. Co. v Food City*, 167 AD2d 983, 984).

Entered: February 11, 2010

Patricia L. Morgan  
Clerk of the Court