

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

**97**

**CA 09-01896**

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, PINE, AND GORSKI, JJ.

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PELUSIO FAMILY PARTNERSHIP, L.P.,  
PLAINTIFF-RESPONDENT,

V

ORDER

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY,  
DEFENDANT-APPELLANT.

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UNDERBERG & KESSLER LLP, ROCHESTER (PAUL F. KENEALLY OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

WOODS OVIATT GILMAN LLP, ROCHESTER (ROBERT S. ATTARDO OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Monroe County (Harold L. Galloway, J.), entered June 1, 2009 in a declaratory judgment action. The order denied defendant's motion for summary judgment.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for the reasons stated in the decision at Supreme Court.

Entered: February 11, 2010

Patricia L. Morgan  
Clerk of the Court