

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

**346**

**CA 09-02292**

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

---

MONIKA O'BRIEN AND DENNIS O'BRIEN,  
PLAINTIFFS-RESPONDENTS-APPELLANTS,

V

ORDER

THERESA A. LOMBARDO,  
DEFENDANT-APPELLANT-RESPONDENT.

---

RUPP, BAASE, PFALZGRAF, CUNNINGHAM & COPPOLA LLC, ROCHESTER (ALISON M. K. LEE OF COUNSEL), FOR DEFENDANT-APPELLANT-RESPONDENT.

CELLINO & BARNES, P.C., ROCHESTER (K. JOHN WRIGHT OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS-APPELLANTS.

---

Appeal and cross appeal from an order of the Supreme Court, Monroe County (Harold L. Galloway, J.), entered July 1, 2009 in a personal injury action. The order granted in part and denied in part the motion of defendant for summary judgment and the cross motion of plaintiffs for partial summary judgment.

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

Entered: March 19, 2010

Patricia L. Morgan  
Clerk of the Court