

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

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**CA 09-01911**

PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ.

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NANCY SZYMKOWIAK, PLAINTIFF,

V

ORDER

DORITEX CORP., DEFENDANT.

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DORITEX CORP., THIRD-PARTY  
PLAINTIFF-RESPONDENT,

V

AMERICAN HOMEPATIENT, THIRD-PARTY  
DEFENDANT-APPELLANT.

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GOLDBERG SEGALLA LLP, BUFFALO (DENNIS P. GLASCOTT OF COUNSEL), FOR  
THIRD-PARTY DEFENDANT-APPELLANT.

LAW OFFICES OF LAURIE G. OGDEN, BUFFALO (JERRY MARTI OF COUNSEL), FOR  
THIRD-PARTY PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (John F. O'Donnell, J.), entered April 30, 2009 in a personal injury action. The order, among other things, denied third-party defendant's motion for summary judgment.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Entered: February 11, 2010

Patricia L. Morgan  
Clerk of the Court