

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

553

CA 08-02349

PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ.

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SUSAN L. KAGELS AND DAVID KAGELS,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

LEWISTON RECREATIONAL CENTER, DOING BUSINESS  
AS FRONTIER BOWLING CENTER, DEFENDANT-APPELLANT.

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BURDEN, GULISANO & HICKEY, LLC, BUFFALO (PHILIP M. GULISANO OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

VIOLA, CUMMINGS & LINDSAY, LLP, NIAGARA FALLS (MICHAEL J. SKONEY OF  
COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Niagara County (Ralph A. Boniello, III, J.), entered August 11, 2008 in a personal injury action. The order, insofar as appealed from, denied in part the motion of defendant for summary judgment.

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

Entered: April 24, 2009

Patricia L. Morgan  
Deputy Clerk of the Court