

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

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CA 07-01515

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

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JOANNE LOVALL, AS EXECUTOR OF THE ESTATE OF  
ANDREW R. BASCH, DECEASED, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

GRAVES BROS., INC. AND GRAVES BROS. HOME  
IMPROVEMENT CO., DEFENDANTS-RESPONDENTS.  
(APPEAL NO. 2.)

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FITZSIMMONS, NUNN, FITZSIMMONS & PLUKAS, LLP, ROCHESTER (JASON ABBOTT  
OF COUNSEL), FOR PLAINTIFF-APPELLANT.

HISCOCK & BARCLAY, LLP, ROCHESTER (PAUL SANDERS OF COUNSEL), FOR  
DEFENDANTS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Monroe County (William  
P. Polito, J.), entered May 18, 2007 in a personal injury action. The  
order denied the motion of Andrew R. Basch for partial summary  
judgment.

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

Same Memorandum as in *Lovall v Graves Bros., Inc.* ([appeal No. 1]  
\_\_\_ AD3d \_\_\_ [June 5, 2009]).

Entered: June 5, 2009

Patricia L. Morgan  
Clerk of the Court