

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

**847**

**CA 08-02391**

PRESENT: HURLBUTT, J.P., CENTRA, PERADOTTO, CARNI, AND GORSKI, JJ.

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CHERYL KALENDA AND MENYHERT KALENDA, JR.,  
PLAINTIFFS-APPELLANTS,

V

ORDER

MAR-WAL CONSTRUCTION CO., INC.,  
DEFENDANT-RESPONDENT.

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ROBERT H. PERK, BUFFALO, FOR PLAINTIFFS-APPELLANTS.

GOERGEN & MANSON, WILLIAMSVILLE (JOSEPH G. GOERGEN OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (John A. Michalek, J.), entered June 6, 2008 in a personal injury action. The order, among other things, granted defendant's motion for summary judgment dismissing the complaint.

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

Entered: June 5, 2009

Patricia L. Morgan  
Clerk of the Court