

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

1462

CA 08-02622

PRESENT: SMITH, J.P., PERADOTTO, GREEN, PINE, AND GORSKI, JJ.

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KAREN MCGRATH AND STEVEN FOLEY,  
PLAINTIFFS-RESPONDENTS,

V

ORDER

TOWN OF IRONDEQUOIT, DEFENDANT-APPELLANT.

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LIPPMAN O'CONNOR, BUFFALO (GERARD E. O'CONNOR OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

MICHAEL J. TUOHEY, ROCHESTER, FOR PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Monroe County (Ann Marie Taddeo, J.), entered August 28, 2008. The order granted the motion of plaintiffs to take the oral deposition of a nonparty witness.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs (*see* CPLR 3101 [d] [1] [iii]; *Brooklyn Floor Maintenance Co. v Providence Washington Ins. Co.*, 296 AD2d 520, 521-522).

Entered: November 13, 2009

Patricia L. Morgan  
Clerk of the Court