

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

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CA 09-01617

PRESENT: SMITH, J.P., FAHEY, CARNI, LINDLEY, AND SCONIERS, JJ.

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MARLE M. FIOCCO, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

SHANNON M. DOYLE, DEFENDANT-APPELLANT,  
VEHICLE ASSET UNIVERSAL LEASING TRUST, GENERAL  
MOTORS ACCEPTANCE CORPORATION, CENTRAL  
ORIGINATING LEASE TRUST, DEFENDANTS-RESPONDENTS,  
ET AL., DEFENDANT.  
(APPEAL NO. 3.)

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SUGARMAN LAW FIRM LLP, BUFFALO (KELLY J. PHILIPS OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

LAW OFFICE OF JOHN J. FROMEN, BUFFALO, MAGAVERN MAGAVERN GRIMM LLP  
(EDWARD J. MARKARIAN OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Niagara County  
(Richard C. Kloch, Sr., A.J.), entered February 20, 2009 in a personal  
injury action. The order, insofar as appealed from, denied the motion  
of defendant Shannon M. Doyle for summary judgment.

It is hereby ORDERED that the order so appealed from is  
unanimously modified on the law by granting that part of the motion of  
defendant Shannon M. Doyle seeking summary judgment dismissing the  
fourth cause of action and dismissing that cause of action and as  
modified the order is affirmed without costs.

Same Memorandum as in *Progressive Halcyon Ins. Co. v Giacometti*  
(\_\_\_ AD3d \_\_\_ [Apr. 30, 2010]).

Entered: April 30, 2010

Patricia L. Morgan  
Clerk of the Court