

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

1288

CA 10-01263

PRESENT: SMITH, J.P., PERADOTTO, CARNI, SCONIERS, AND GORSKI, JJ.

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MARLIN DAVIS, PLAINTIFF-RESPONDENT,

V

ORDER

HOSPITALITY MOTELS USA, INC., ALSO KNOWN  
AS TRAVEL LODGE, DEFENDANT-APPELLANT.

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COHEN & LOMBARDO, P.C., BUFFALO (JONATHAN D. COX OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

BENNETT, DIFILIPPO & KURTZHALTS, LLP, EAST AURORA (MAURA C. SEIBOLD OF  
COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Niagara County (Ralph A. Boniello, III, J.), entered October 15, 2009 in a personal injury action. The order denied the motion of defendant for summary judgment dismissing the complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: November 12, 2010

Patricia L. Morgan  
Clerk of the Court