

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D21615
G/kmg

_____AD3d_____

Argued - October 6, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
HOWARD MILLER
RANDALL T. ENG, JJ.

2008-00364

DECISION & ORDER

Debra Anduaga, respondent,
v AHRC NYC New Projects, Inc., appellant.

(Index No. 431/06)

Jones Hirsch Connors & Bull P.C., New York, N.Y. (Richard Imbrogno and Charles E. O'Bryan of counsel), for appellant.

Eaton & Torrenzano, LLP, Brooklyn, N.Y. (Jay Torrenzano of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Kings County (Schneier, J.), dated November 19, 2007, which denied that branch of its motion which was for summary judgment dismissing the complaint on the ground that the action is barred by the exclusivity provisions of the Workers' Compensation Law.

ORDERED that the order is reversed, on the law, with costs, and that branch of the defendant's motion which was for summary judgment dismissing the complaint is granted.

The plaintiff was injured in a workplace accident and was awarded workers compensation benefits. Under the circumstances of this case, the Supreme Court should have granted that branch of the defendant's motion which was for summary judgment dismissing the complaint on the ground that the action was barred by the exclusivity provisions of the Workers' Compensation Law. The defendant is an alter ego of the plaintiff's employer, NYSARC, Inc., such that the plaintiff

December 30, 2008

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is relegated to her remedy of workers' compensation benefits (*see Ortega v Noxxen Realty Corp.*, 26 AD3d 361, 362; *Crespo v Pucciarelli*, 21 AD3d 1048, 1049; *Ramnarine v Memorial Ctr. for Cancer & Allied Diseases*, 281 AD2d 218, 219).

RIVERA, J.P., LIFSON, MILLER and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer
Clerk of the Court