

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

M73761
E/sl

ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
MARK C. DILLON
THOMAS A. DICKERSON, JJ.

2008-05036

DECISION & ORDER ON MOTION

Elaine Bryan, plaintiff-respondent,
v Jennifer Berger, et al., defendants-respondents,
New York City Transit Authority, et al.,
appellants, et al., defendant
(and another action).

(Index No. 100339/05)

Motion by the appellants to confirm that an automatic stay is in effect pursuant to CPLR 5519(a)(1), pending hearing and determination of an appeal from an order of the Supreme Court, Kings County, dated March 28, 2008, or, to stay all proceedings in the above-entitled action, including the trial, pursuant to CPLR 5519(c), pending hearing and determination of the appeal.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the branch of the motion which is to confirm that an automatic stay is in effect pursuant to CPLR 5519(a) is denied; and it is further,

ORDERED that the branch of the motion which is to stay all proceedings in the above-entitled action, including the trial, pursuant to CPLR 5519(c), is granted to the extent that the trial in the above-entitled action is stayed pending hearing and determination of the appeal on condition that the appeal is perfected on or before September 15, 2008, and the motion is otherwise denied; and it is further,

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ORDERED that in the event the appeal is not perfected on or before September 15, 2008, the court, on its own motion, may vacate the stay, or the respondents may move to vacate the stay, on three days notice.

SPOLZINO, J.P., FISHER, DILLON and DICKERSON, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court