

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

M77041
E/sl

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
FRED T. SANTUCCI
EDWARD D. CARNI, JJ.

2008-03046

DECISION & ORDER ON MOTION

Stephen Auerbach, etc., et al., appellants,
v Samuel Klein, et al., respondents.

(Index No. 15391-02)

Motion by the appellants to stay enforcement of an order of the Supreme Court, Suffolk County, dated February 15, 2008, to stay all proceedings concerning the entry of any judgment on the order or enforcement of any judgment entered on the order, to stay any application to vacate or modify a certain stipulation among the parties so-ordered September 19, 2005, to stay the Suffolk County Treasurer from releasing money held pursuant to the stipulation, and to stay any application to vacate or modify a certain preliminary injunction in the above-entitled action dated February 6, 2003, as amended March 13, 2003, pending hearing and determination of an appeal from the order dated February 15, 2008.

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

ORDERED that the motion is granted, and enforcement of the order dated February 6, 2003, all proceedings concerning the entry of any judgment on the order, all proceedings concerning enforcement of any judgment entered on the order, and any applications to vacate or modify the so-ordered stipulation dated September 19, 2005, or the preliminary injunction dated February 6, 2003, as amended March 13, 2003, are stayed, and the Suffolk County Treasurer is stayed from releasing money held pursuant to the stipulation, pending hearing and determination of the appeal on condition that the appeal is perfected on or before November 10, 2008, and on further condition that the appellants continue the undertaking which they were directed to post by the temporary restraining order contained in the order to show cause received September 22, 2008; and it is further,

October 10, 2008

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ORDERED that in the event the appellants do not comply with the foregoing conditions, 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., RITTER, SANTUCCI and CARNI, 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