

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

M78628
E/sl

REINALDO E. RIVERA, J.P.
MARK C. DILLON
JOSEPH COVELLO
WILLIAM E. McCARTHY, JJ.

2008-01078

DECISION & ORDER ON MOTION

Kenneth Heller, et al., appellants,
v Frota Oceanica E Amazonica, S.A., etc.,
et al., respondents.
(Appeal No. 1)

(Index No. 38282/06)

2008-06913

Virginia Pires, appellant,
v Frota Oceanica E Amazonica, S.A., etc.,
et al., respondents.
(Appeal No. 2)

(Index No. 38583/06)

Motion by the appellants Kenneth Heller and Kenneth Heller, P.C., to stay all proceedings in the above-entitled actions pending hearing and determination of appeals from two orders of the Supreme Court, Kings County, dated December 17, 2007, and June 25, 2008, respectively, to consolidate the appeals, and, in effect, for leave to withdraw the record and brief filed in connection with the appeal from the order dated December 17, 2007 (Appellate Division Docket No. 2008-01078), and to file a replacement record and brief. Application by the respondents pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to serve and file a brief.

November 17, 2008

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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 stay all proceedings is denied; and it is further,

ORDERED that the branch of the motion which is to consolidate the appeals is granted to the extent that the appeals will be calendared together and will be argued or submitted on the same day, and that branch of the motion is otherwise denied; and it is further,

ORDERED that the branch of the motion which is in effect, for leave to withdraw the record and brief filed in connection with the appeal from the order dated December 17, 2007, and to file a replacement record and brief is granted, and on or before January 21, 2009, the appellants Kenneth Heller and Kenneth Heller, P.C., shall serve and file the replacement record or appendix on the appeal and their brief; and it is further,

ORDERED that the application is denied as academic.

RIVERA, J.P., DILLON, COVELLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court