

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

M87292
S/sl

A. GAIL PRUDENTI, P.J.
RANDALL T. ENG
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2008-08818

DECISION & ORDER ON MOTION

Mariusz Baginski, et al., respondents-appellants,
v Queen Grand Realty, LLC, defendant third-party
plaintiff-appellant-respondent, Manhattan Beer
Distributions, LLC, defendant appellant-respondent,
et al., defendant; Milcon Construction Corp.,
third-party defendant fourth-party plaintiff-respondent;
Macro Contracting Corp., fourth-party defendant-
respondent.

(Index No. 4735/05)

On the court's own motion, it is

ORDERED that its decision and order on motion dated April 27, 2009, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Motion by the appellants-respondents to stay the trial in the above-entitled action pending hearing and determination of an appeal and cross appeal from an order of the Supreme Court, Queens County, entered September 10, 2008. *Application by the respondents-appellants to withdraw their cross appeal.*

Upon the papers filed in support of the motion and the papers filed in opposition and in relation thereto, *and upon the papers filed in support of the application*, it is

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ORDERED that the motion is denied; *and it is further,*

ORDERED that the application is granted and the cross appeal is deemed withdrawn, without costs or disbursements.

PRUDENTI, P.J., ENG, BELEN and CHAMBERS, 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