

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

M87298  
E/sl

STEVEN W. FISHER, J.P.  
MARK C. DILLON  
HOWARD MILLER  
RANDALL T. ENG, JJ.

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2008-10935

DECISION & ORDER ON MOTION

John P. Mantovani, plaintiff-respondent,  
v Whiting-Turner Contracting Company, defendant  
second third-party plaintiff-appellant, Herbert G.  
Martin, Inc., defendant third-party plaintiff/  
fourth-party plaintiff, et al., defendants; ADCO  
Electrical Corp, third-party defendant-respondent;  
United Rental, fourth-party defendant; Carmody  
Contracting, Inc., second third-party defendant-  
respondent.

(Index No. 08-11259)

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Motion by Whiting-Turner Contracting Company, in effect, for leave to reargue its prior motion to stay the trial in the above-entitled action pending hearing and determination of an appeal from an order of the Supreme Court, Westchester County, entered November 13, 2008, which was determined by decision and order on motion dated March 20, 2009. Separate motion by Carmody Contracting, Inc., to enlarge the record to include certain documents and to enlarge the time to serve and file a brief.

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

ORDERED that the motion by Whiting-Turner Contracting Company for leave to reargue is denied; and it is further,

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ORDERED that the branch of the motion by Carmody Contracting, Inc., which is to enlarge the record is granted to the extent that the record is enlarged to include the transcript of the deposition of Gregory E. Mazza, dated October 7, 2005, the transcript of the deposition of Gregory E. Mazza, dated May 31, 2007, the transcript of the deposition of Gregory McClean, dated May 31, 2007, with signature page and errata sheet, and the contract between Whiting-Turner Contracting Company and Carmody Contracting, Inc., dated May 29, 2001, which were attached to the motion of Carmody Contracting, Inc., for summary judgment, as Exhibits H, I, K, and L, and on or before June 19, 2009, Carmody Contracting, Inc., shall serve and file a supplemental record containing those documents, and that branch of the motion is otherwise denied; and it is further,

ORDERED that the branch of the motion by Carmody Contracting, Inc., which is to enlarge its time to serve and file a brief is granted, the time of Carmody Contracting, Inc., to serve and file a brief is enlarged until June 19, 2009, and the brief of Carmody Contracting, Inc., must be served and filed on or before that date.

FISHER, J.P., DILLON, MILLER and ENG, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court