

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

M87541  
E/sl

STEVEN W. FISHER, J.P.  
ANITA R. FLORIO  
JOSEPH COVELLO  
THOMAS A. DICKERSON, JJ.

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2009-04605

DECISION & ORDER ON MOTION

Rosemarie Brancaccio, respondent,  
v Kohl's Department Stores, Inc., appellant.

(Index No. 08-1233)

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Motion by the appellant 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 May 5, 2009, and for a preference in the calendaring 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 stay the trial is granted, and 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 July 6, 2009; and it is further,

ORDERED that in the event the appeal is not perfected on or before July 6, 2009, the court, on its own motion, may vacate the stay, or the respondent may move to vacate the stay, on three days notice; and it is further,

ORDERED that the branch of the motion which is for a preference in the calendaring of the appeal is denied.

FISHER, J.P., FLORIO, COVELLO and DICKERSON, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

June 4, 2009

BRANCACCIO v KOHL'S DEPARTMENT STORES, INC.