

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

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E/sl

ROBERT A. SPOLZINO, J.P.
DANIEL D. ANGIOLILLO
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2008-04516, 2009-00082, 2009-04538

DECISION & ORDER ON MOTION

Nicholas Cicero, respondent,
v CVS Pharmacy, Inc., et al., appellants.

(Index No. 100920/06)

Motion by the appellants to consolidate appeals from three orders of the Supreme Court, Richmond County, dated March 28, 2008, November 18, 2008, and December 5, 2008, respectively, and to stay all proceedings in the above-entitled action, including the trial, pending hearing and determination of the appeals. Cross motion by the respondent to dismiss the appeals, to strike the records on the appeals, and to enlarge the time to serve and file a brief in connection with the appeals from the order dated November 18, 2008, and December 5, 2008, respectively.

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

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 it is further,

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

ORDERED that the branches of the cross motion which are to dismiss the appeals and to strike the records are held in abeyance and referred to the panel of Justices hearing the appeals for determination upon the argument or submission thereof; and it is further,

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ORDERED that the branch of the cross motion which is to enlarge the time to serve and file a brief in connection with the appeals from the order dated November 18, 2008, and December 5, 2008, respectively (Appellate Division Docket Nos. 2009-00082, 2009-04538), is granted and the respondent's time to serve and file a brief is enlarged until July 8, 2009, and the respondent's brief must be served and filed on or before that date.

SPOLZINO, J.P., ANGIOLILLO, CHAMBERS and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court