

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

M88276
E/sl

ROBERT A. SPOLZINO, J.P.
RUTH C. BALKIN
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2007-01056

DECISION & ORDER ON MOTION

Nocenzo Cusumano, et al., respondents,
v City of New York, appellant.

(Index No. 4207/01)

Motion by the appellant for leave to appeal to the Court of Appeals pursuant to CPLR 5602(b)(1) from an opinion and order of this court dated April 7, 2009, which modified a judgment of the Supreme Court, Queens County, entered November 30, 2006.


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

ORDERED that the motion is granted, and the following question is certified to the Court of Appeals: Was the opinion and order of this court dated April 7, 2009, properly made?

Questions of law have arisen, which, in our opinion, ought to be reviewed by the Court of Appeals (*see* CPLR 5713).

SPOLZINO, J.P., BALKIN, DICKERSON and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 18, 2009

CUSUMANO v CITY OF NEW YORK