

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

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ANITA R. FLORIO, J.P.
HOWARD MILLER
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2009-05836

DECISION & ORDER ON MOTION

Everest Mechanical and General Construction
Corp., plaintiff, v Terrance Smith, et al., defendants
(and a third-party action).

(Index No. 25441/05)

Motion by the plaintiff to stay the trial in the above-entitled action pursuant to CPLR 5704(a) or, for leave to appeal to this court from an order of the Supreme Court, Queens County, dated June 19, 2009, and to stay the trial in the above-entitled action, pending hearing and determination of the appeal.

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

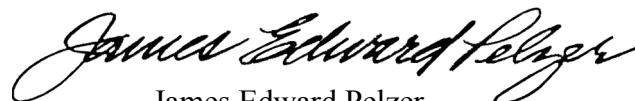
ORDERED that the branch of the motion which is to stay the trial in the above-entitled action pursuant to CPLR 5704(a) is denied; and it is further,

ORDERED that the branch of the motion which is for leave to appeal is denied; and it is further,

ORDERED that the branch of the motion which is to stay the trial in the above-entitled action, pending hearing and determination of the appeal is denied as academic.

FLORIO, J.P., MILLER, LEVENTHAL and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

July 1, 2009

EVEREST MECHANICAL AND GENERAL CONSTRUCTION CORP. v SMITH