

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

M89297
S/sl

FRED T. SANTUCCI, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
PLUMMER E. LOTT, JJ.

2008-10020, 2009-04396

DECISION & ORDER ON MOTION

Richard J. Erickson, respondent-appellant,
v Cross Ready Mix, Inc., et al., respondents,
Turner Construction Company, defendant
third-party plaintiff respondent-appellant, Elite Ready
Mix Corporation, defendant-appellant-respondent;
Commodore Construction Corp., third-party
defendant-respondent.
(Appeal No. 1)

Richard J. Erickson, appellant,
v Cross Ready Mix, Inc., et al., respondents
(and a third-party action).
(Appeal No. 2)

(Index No. 11947/05)

On the court's own motion, it is

ORDERED that its decision and order on motion dated June 16, 2009, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Motion by Turner Construction Company, inter alia, to hold in abeyance an appeal and cross appeals from an order of the Supreme Court, Nassau County, dated September 22, 2008, “pending the perfection” of an appeal from an order of the same court dated April 17, 2009, and to enlarge the time to serve and file a brief in connection with the appeal and cross appeals from the order dated September 22, 2008.

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

ORDERED that on the court's own motion, the appeals and cross appeals from the orders dated April 17, 2009, and September 22, 2008, respectively, will be calendared together and will be argued or submitted on the same day; and it is further,

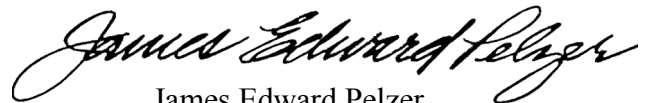
ORDERED that the branch of the motion which is to enlarge the time to serve and file briefs is granted; Richard J. Erickson's time to serve and file its answering brief in connection with the appeal and cross appeals from the order dated September 22, 2008 (Appellate Division Docket No. 2008-10020), including the points of argument on the cross appeal (see 22 NYCRR 670.8[c][3]), is enlarged until August 10, 2009, and it is further,

ORDERED that the time of Turner Construction Company to serve and file its answering brief, including the points of argument on the cross appeal (see 22 NYCRR 670.8[c][3]), in connection with the appeal and cross appeals from the order dated September 22, 2008 (Appellate Division Docket No. 2008-10020), is enlarged until September 15, 2009, and Turner Construction Company's answering brief must be served and filed on or before that date; and it is further,

ORDERED that the motion is otherwise denied.

SANTUCCI, J.P., FLORIO, DICKERSON and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court