

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

M90632  
E/sl

WILLIAM F. MASTRO, J.P.  
JOSEPH COVELLO  
RANDALL T. ENG  
JOHN M. LEVENTHAL, JJ.

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2007-04977

DECISION & ORDER ON MOTION

McNamee Construction Corp., respondent,  
v City of New Rochelle, appellant, et al.,  
defendants  
(and a third-party action).

(Index No. 04-11742)

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Motion by the respondent for leave to reargue an appeal from an order of the Supreme Court, Westchester County, entered May 2, 2007, which was determined by decision and order of this court dated March 24, 2009, or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this court. Cross motion by the appellant to strike certain material contained in the papers filed in support of the respondent's motion.

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 motion and cross motion are denied.

MASTRO, J.P., COVELLO, ENG and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

August 11, 2009

McNAMEE CONSTRUCTION CORP. v CITY OF NEW ROCHELLE