

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

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E/sl

MARK C. DILLON, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
LEONARD B. AUSTIN, JJ.

2009-04246

DECISION & ORDER ON MOTION

Carlos Gonzalez, plaintiff,
v Fortway, LLC, et al., defendants third-party
plaintiffs-appellants; Final Contracting Corp.,
third-party defendant-respondent.

(Index No. 38814/05)

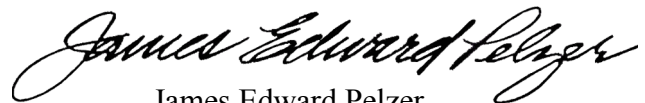
Motion by Final Contracting Corp. to dismiss an appeal from an order of the Supreme Court, Kings County, dated March 26, 2009, on the ground, inter alia, that settlement of the main action has rendered the appeal academic under the antisubrogation doctrine.

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 appeal is dismissed, (*see Glick v Millman Goldberg Pressler Assoc.*, 263 AD 2d 497), without costs or disbursements, without prejudice to Fortway, LLC, and Trident Developers, Inc., moving in the Supreme Court, Kings County, for leave to renew the motion by Final Contracting Corp. to dismiss the third-party complaint.

DILLON, J.P., COVELLO, ANGIOLILLO and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

August 18, 2009

GONZALEZ v FORTWAY, LLC