

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

M91199
E/sl

FRED T. SANTUCCI, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
LEONARD B. AUSTIN, 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)

Motion by Richard J. Erickson on an appeal and cross appeals from an order of the Supreme Court, Nassau County, dated September 22, 2008, and an appeal from an order of the same court dated April 17, 2009, inter alia, to enlarge the time to serve and file an answering brief in connection with the appeal and cross appeals from the order dated September 22, 2008, and for leave to file “an addendum” to the joint record on appeal filed in connection with the appeal and cross appeals from the order dated September 22, 2008. Separate motion by Richard J. Erickson, inter alia, to consolidate the appeals and cross appeals.

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

September 2, 2009

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ORDERED that the branch of the motion which is to enlarge the time to serve and file an answering brief is granted, and Richard J. Erickson's time to serve and file the 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 October 1, 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 November 5, 2009, and Turner Construction Company's answering brief must be served and filed on or before that date; and it is further,

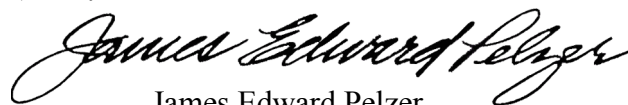
ORDERED that the branch of the motion which is for leave to file "an addendum" to the joint record on appeal filed in connection with the appeal and cross appeals from the order dated September 22, 2008, is granted to the extent that the record is enlarged to include an order of the Supreme Court, Nassau County, also dated September 22, 2008, which granted, in part, Richard J. Erickson's motion to compel the acceptance of his supplemental bill of particulars, and his supplemental bill of particulars dated June 9, 2009, and on or before October 1, 2009, Richard J. Erickson shall serve and file a supplemental joint record containing that order and supplemental bill of particulars; and it is further,

ORDERED that the motion, *inter alia*, to consolidate is granted to the extent that the joint record on appeal and supplemental joint record filed in connection with the appeal and cross appeals from the order dated September 22, 2008, are deemed to be part of the record on the appeal from the order dated April 17, 2009 (Appellate Division Docket No. 2009-04396), and the briefs filed in connection with the appeal from the order dated April 17, 2009, may cite to the joint record and supplemental joint record filed in connection with the appeal and cross appeals from the order dated September 22, 2008; and it is further,

ORDERED that the motions are otherwise denied.

SANTUCCI, J.P., BALKIN, LEVENTHAL and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court