

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

M91229
E/sl

PETER B. SKELOS, J.P.
STEVEN W. FISHER
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2009-02419

DECISION & ORDER ON MOTION

Samuel Figueroa, respondent-appellant,
v Felice Tornabene, et al., appellants-respondents,
Metropolitan Lumber, Hardware and Building
Supplies, Inc., et al., defendants.

(Index No. 23754/06)

Motion by the appellants-respondents on an appeal and cross appeal from an order of the Supreme Court, Queens County, entered January 21, 2009, in effect, to amend so much of a decision and order on motion of this court dated April 15, 2009, as amended by decision and order on motion of this court dated June 11, 2009, as conditioned a stay of the trial in the above-entitled action upon the perfection of the appeal on or before July 13, 2009, to enlarge the time to perfect the appeal, and to enlarge the record to include certain opposition papers allegedly submitted to the Supreme Court, Queens County. Cross motion by the respondent-appellant to vacate the stay.

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 branches of the motion which are, in effect, to amend so much of the decision and order on motion dated April 15, 2009, as amended by decision and order on motion of this court dated June 11, 2009, as conditioned a stay of the trial upon the perfection of the appeal on or before July 13, 2009, and to enlarge the time to perfect the appeal are granted, and the decision and order on motion dated April 15, 2009, is amended by deleting from the decretal paragraphs thereof the date "July 13, 2009," and substituting therefor the date "September 24, 2009," and the time to perfect the appeal is enlarged until September 24, 2009; and it is further,

ORDERED that the branch of the motion which is to enlarge the record to include certain opposition papers is denied; and it is further,

August 25, 2009


FIGUEROA v TORNABENE

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ORDERED that the cross motion is denied.

SKELOS, J.P., FISHER, LEVENTHAL and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer
Clerk of the Court