

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

M91279
E/sl

PETER B. SKELOS, J.P.
ANITA R. FLORIO
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2009-00465

DECISION & ORDER ON MOTION

Noel Smith, plaintiff-respondent,
v Merrill Lynch & Co., Inc., appellant,
Fitzgerald & Fitzgerald, et al.,
defendants-respondents.

(Index No. 9299/04)

Motion by the plaintiff-respondent to enlarge the time to serve and file a brief on an appeal from an order of the Supreme Court, Nassau County, entered November 26, 2008. Application by the appellant to stay all proceedings in the above-entitled action pending hearing and determination of the appeal.

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

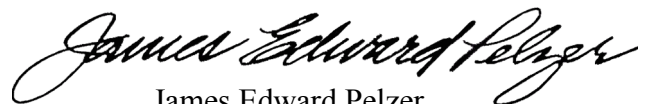
ORDERED that the motion is granted and the time of the plaintiff-respondent to serve and file a brief is enlarged until September 24, 2009, and the brief of the plaintiff-respondent must be served and filed on or before that date; and it is further,

ORDERED that no further enlargement of time shall be granted; and it is further,

ORDERED that the application is denied without prejudice to making a motion for that relief (*see* CPLR 8022[b]).

SKELOS, J.P., FLORIO, COVELLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

August 27, 2009

SMITH v MERRILL LYNCH & CO., INC.