

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

M91354
E/sl

STEVEN W. FISHER, J.P.
MARK C. DILLON
JOSEPH COVELLO
RANDALL T. ENG, JJ.

2008-10129, 2009-03695

DECISION & ORDER ON MOTION

Micro-Spy, Inc., et al., respondents,
v Marietta Small, etc., defendant;
Ernest Hammer, etc., nonparty-appellant.

(Index No. 49933/01)

Motion by the respondent Joseph Tornheim to strike the nonparty-appellant's brief on appeals from two orders of the Supreme Court, Kings County, dated September 19, 2008, and January 30, 2009, respectively, to impose a sanction upon the nonparty-appellant, and for an award of costs. Application by the respondent Joseph Tornheim pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to serve and file a brief.

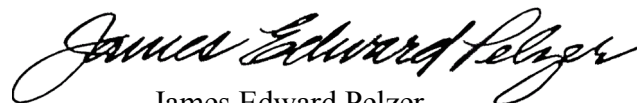
Upon the papers filed in support of the motion and the papers filed in opposition thereto, and upon the application, it is

ORDERED that the motion is denied; and it is further,

ORDERED that the application is granted, the time of Joseph Tornheim to serve and file a brief is enlarged until September 29, 2009, and the brief of Joseph Tornheim must be served and filed on or before that date.

FISHER, J.P., DILLON, COVELLO and ENG, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

August 28, 2009

MICRO-SPY, INC. v SMALL