

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1699

CA 08-00094

PRESENT: SCUDDER, P.J., SMITH, CENTRA, AND FAHEY, JJ.

VIRGINIA FASANO, PLAINTIFF-RESPONDENT,

V

ORDER

J.C. PENNEY CORPORATION, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

FELDMAN, KIEFFER & HERMAN, LLP, BUFFALO (MICHELE K. SNYDER OF
COUNSEL), FOR DEFENDANT-APPELLANT.

Appeal from an order of the Supreme Court, Monroe County (Ann Marie Taddeo, J.), entered October 23, 2007 in a personal injury action. The order, insofar as appealed from, denied those parts of defendant's motion for leave to reargue and for a stay of the action pending appeal.

It is hereby ORDERED that said appeal from the order insofar as it denied leave to reargue is unanimously dismissed (*see Empire Ins. Co. v Food City*, 167 AD2d 983, 984) and insofar as it denied a stay pending appeal is dismissed without costs as moot (*see Mercer v Pal Energy Corp.*, 280 AD2d 896, 897).

Entered: February 6, 2009

JoAnn M. Wahl
Clerk of the Court