

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

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_____AD3d_____

Argued - September 25, 2008

WILLIAM F. MASTRO, J.P.
DANIEL D. ANGIOLILLO
EDWARD D. CARNI
RANDALL T. ENG, JJ.

2007-11178
2008-03625

DECISION & ORDER

In the Matter of Munji Lago, respondent, v City of New York-Workers' Compensation Division, appellant.

(Index No. 9299/07)

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo and Elizabeth I. Freedman of counsel), for appellant.

Stephanie Ovadia, East Meadow, N.Y. (Hayley A. Lisabeth of counsel), for respondent.

In a proceeding pursuant to Workers' Compensation Law § 29(5) for court approval of a settlement of a personal injury action, City of New York-Workers' Compensation Division appeals from (1) an order of the Supreme Court, Kings County (Battaglia, J.), dated October 19, 2007, which denied its motion to vacate an order of the same court dated April 25, 2007, granting the petitioner's application for approval of the prior settlement, and (2) an order of the same court dated January 22, 2008, which denied its motion for leave to reargue.

ORDERED that the appeal from the order dated January 22, 2008, is dismissed, as no appeal lies from an order denying reargument; and it is further,

ORDERED that the order dated October 19, 2007, is affirmed; and it is further,

ORDERED that one bill of costs is awarded to the petitioner.

November 5, 2008

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MATTER OF LAGO v CITY OF NEW YORK-WORKERS' COMPENSATION DIVISION

The Supreme Court correctly determined that the appellant, City of New York-Workers' Compensation Division (hereinafter the City), failed to demonstrate the merit of its position, so that relief pursuant to CPLR 5015(a)(1) was properly denied (*see e.g. Foxworth v Jenkins*, 48 AD3d 1261).

The City's remaining contentions are without merit.

MASTRO, J.P., ANGIOLILLO, CARNI and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court