

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

D23264  
O/kmg

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Argued - April 20, 2009

STEVEN W. FISHER, J.P.  
JOSEPH COVELLO  
DANIEL D. ANGIOLILLO  
JOHN M. LEVENTHAL, JJ.

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2008-02334

DECISION & ORDER

Rosario Chavez, etc., plaintiff-respondent,  
v City of New York, defendant third-party  
plaintiff-respondent; Madeline Chocolates Novelities,  
Inc., third-party defendant-appellant.  
(Action No. 1)

Rosario Chavez, etc., plaintiff-respondent,  
v New York City Industrial Development  
Agency, appellant, et al., defendant  
(and a third-party action).  
(Action No. 2)

(Index Nos. 3099/95, 10794/95)

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Smith Mazure Director Wilkins Young & Yagerman, P.C., New York, N.Y. (Darren R. Marks of counsel), for third-party defendant-appellant Madeline Chocolates Novelities, Inc.

Morenus, Conway, Goren & Brandman, Melville, N.Y. (Brian S. Brandman of counsel), for appellant New York City Industrial Development Agency.

Pagan Law Firm, P.C., New York, N.Y. (Tania M. Pagan of counsel), for plaintiff-respondent.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Stephen J. McGrath, Terrence Kossegi, and Victoria Scalzo of counsel), for defendant third-party plaintiff-respondent.

May 26, 2009

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CHAVEZ v CITY OF NEW YORK  
CHAVEZ v NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY

Separate appeals by Madeline Chocolates Novelties, Inc., the third-party defendant in Action No. 1, and New York City Industrial Development Agency, a defendant in Action No. 2, from an order of the Supreme Court, Queens County (Kerrigan, J.), dated February 6, 2008.

ORDERED that the order is affirmed, with one bill of costs, for reasons stated by Justice Kerrigan at the Supreme Court.

FISHER, J.P., COVELLO, ANGIOLILLO and LEVENTHAL, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court