

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

918

CA 08-00552

PRESENT: CENTRA, J.P., PERADOTTO, GREEN, PINE, AND GORSKI, JJ.

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LESTER A. JOHNS, PLAINTIFF-RESPONDENT,

V

ORDER

LESTER JOHNS, INC., MCN CONSTRUCTION, INC.,  
PHILIP E. MCNULTY, INDIVIDUALLY, AND FRANCES  
MCNULTY, INDIVIDUALLY, DEFENDANTS-APPELLANTS.

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IN THE MATTER OF LESTER A. JOHNS,  
PETITIONER-RESPONDENT-APPELLANT,

V

LESTER JOHNS, INC., MCN CONSTRUCTION, INC.,  
PHILIP E. MCNULTY, INDIVIDUALLY, FRANCES  
MCNULTY, INDIVIDUALLY,  
RESPONDENTS-APPELLANTS-RESPONDENTS,  
ET AL., RESPONDENTS.  
(APPEAL NO. 2.)

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DADD AND NELSON PLLC, ATTICA (DAVID H. NELSON OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS AND RESPONDENTS-APPELLANTS-RESPONDENTS.

GLENN R. MORTON, BATAVIA, FOR PLAINTIFF-RESPONDENT AND PETITIONER-  
RESPONDENT-APPELLANT.

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Appeal and cross appeal from an order of the Supreme Court,  
Genesee County (Robert C. Noonan, A.J.), entered February 13, 2008.  
The order, inter alia, awarded prejudgment interest to plaintiff-  
petitioner.

It is hereby ORDERED that the order so appealed from is  
unanimously affirmed without costs for reasons stated in the decision  
at Supreme Court.

Entered: June 5, 2009

Patricia L. Morgan  
Clerk of the Court