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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 99 SSM 9

Keith Holmes,

Respondent,

v.

Business Relocation Services,

Inc.,

Third-Party

Plaintiff-Appellant,

United Staffing Systems, Inc.,

Third-Party

Defendant-Respondent.

Submitted by Daniel S. Kotler, for third-party
plaintiff-appellant.

Submitted by Blake G. Goldfarb, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs, and the certified question answered in the
affirmative. As a matter of law, it cannot be said that Business
Relocation Services, Inc., the alleged special employer, overcame

the presumption of continuing general employment by "clear[ly] demonstrati[ng] . . . surrender of control by the general employer and assumption of control by the special employer" (Thompson v Grumman Aerospace Corp., 78 NY2d 553, 557 [1991]).

The Appellate Division correctly determined that issues of fact remained as to the alleged special employment relationship.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge Lippman and Judges Read, Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

Decided March 26, 2015