

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

D54693  
C/htr

\_\_\_\_AD3d\_\_\_\_

Argued - November 9, 2017

RUTH C. BALKIN, J.P.  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS  
ROBERT J. MILLER, JJ.

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2016-07282

DECISION & ORDER

Drena Mileski, etc., plaintiff, v MSC Industrial Direct Co., Inc., defendant third-party plaintiff-appellant, et al., defendants; Buffalo Machinery Co., Ltd., third-party defendant-respondent, et al., third-party defendant.

(Index No. 10391/09)

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Wilson Elser Moskowitz Edelman & Dicker LLP, White Plains, NY (Eliza M. Scheibel and Melissa McCarthy of counsel), for defendant third-party plaintiff-appellant.

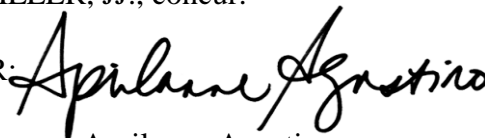
Farber Brocks & Zane LLP, Garden City, NY (Tracy L. Frankel of counsel), for third-party defendant-respondent.

In an action, inter alia, to recover damages for wrongful death, etc., the defendant third-party plaintiff appeals from an order of the Supreme Court, Suffolk County (Mayer, J.), dated May 23, 2016, which denied its motion for leave to renew its prior cross motion pursuant to CPLR 306-b and CPLR 311(b) to extend the time to serve the third-party complaint on the third-party defendant Buffalo Machinery Co., Ltd., and for leave to effectuate such service by alternate means, which cross motion had been denied by an order of the same court entered September 18, 2014.

ORDERED that the appeal is dismissed as academic, with costs, in light of our determination on the companion appeals (*see Mileski v MSC Industrial Direct Co., Inc.*, \_\_\_\_AD3d \_\_\_\_ [Appellate Division Docket No. 2014-11031; decided herewith]).

BALKIN, J.P., LEVENTHAL, CHAMBERS and MILLER, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court

March 7, 2018

MILESKI v MSC INDUSTRIAL DIRECT CO., INC.