

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

M246809

E/rr

ALAN D. SCHEINKMAN, P.J.
JEFFREY A. COHEN
COLLEEN D. DUFFY
ANGELA G. IANNACCI, JJ.

2017-11229

DECISION & ORDER ON MOTION

Albert J. Cutler, et al., respondents,
v Stella J. Thomas, et al., defendants
third-party plaintiffs-appellants;
Claude Staley, et al., third-party
defendants-respondents, et al., third-party
defendant.

(Index No. 59436/13)

Motion by Stella J. Thomas and purportedly by Michael P. Thomas to stay all proceedings in the above-entitled action, including the trial, pending hearing and determination of an appeal from an order of the Supreme Court, Westchester County, dated October 4, 2017.

Upon the papers filed in support of the motion and the papers filed in relation thereto, it is

ORDERED that the motion insofar as purportedly made by Michael P. Thomas is dismissed, as counsel did not have authority to make a motion on his behalf (*see Aurora Bank FSB v Albright*, 137 AD3d 1177), and it is further,

ORDERED that the motion is otherwise granted to the extent that the trial in the above-entitled action is stayed pending hearing and determination of the appeal on condition that the appeal is perfected on or before April 3, 2018, and the motion is otherwise denied; and it is further,

ORDERED that in the event the appeal is not perfected on or before April 3, 2018, the Court, on its own motion, may vacate the stay, without further notice.

SCHEINKMAN, P.J., COHEN, DUFFY and IANNACCI, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

February 28, 2018

CUTLER v THOMAS