

SUPREME COURT - STATE OF NEW YORK

PRESENT: HON. R. BRUCE COZZENS, JR.
Justice.

TRIAL/IAS PART 10
NASSAU COUNTY

WILLIAM GOODMAN and ROSALIE OSIAS a/k/a
LEAH GOODMAN, individually and as parents and
natural guardians of the infant plaintiffs,
MARCEL GOODMAN and ERIC GOODMAN,
Plaintiff(s),

-against-

SY LUBA INC., SY LUBA HEATING & AIR
CONDITIONING, INC., PETRO OIL, INC. and
DOUGLAS LUBA,
Defendant(s).

MOTION #008
INDEX#5895/2003
MOTION DATE:
August 1, 2007

SY LUBA INC., PETRO, INC., and DOUGLAS LUBA
Third-Party Plaintiff(s),

-against-

McGOLDRICK BUILDERS, INC., THOMAS CURLEY
PLUMBING & HEATING, INC. and HERMAN
GERDES, INC.
Third-Party Defendant(s).

AMERICAN INTERNATIONAL INSURANCE
COMPANY as subrogee of WILLIAM GOODMAN
and ROSALIE OSIAS a/k/a LEAH GOODMAN,
Plaintiff(s),

-against-

SY LUBA INC., merged into PETRO INC.
and PETRO INC.,
Defendant(s).

The following papers read on this motion:

Notice of Motion.....1

Upon the foregoing papers, it is ordered that the unopposed motion by defendant/third-party plaintiff Sy Luba Inc., pursuant to CPLR 3126 for an order striking the answer of third-party defendant McGoldrick Inc., is determined as hereinafter set forth.

The instant application arises out of the third-party defendant McGoldrick Builders Inc.'s failure to produce a witness for deposition. It is noted that although an answer was interposed on behalf of McGoldrick Builders Inc., there have been a number of conferences at which there was no appearance, and a failure to produce a witness for deposition.

The defendant/third-party plaintiff now moves for an order pursuant to CPLR 3126 striking the answer of the third-party defendant McGoldrick Builders Inc.

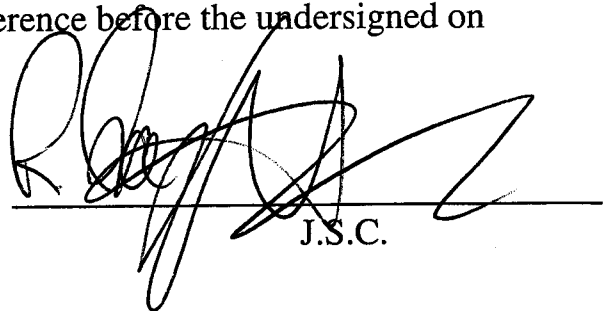
There is no opposition to the motion.

The motion is granted. The answer of McGoldrick Builders Inc. is hereby stricken.

All counsel in the matter of American International Insurance Company v Sy Luba Inc. (Index #1218/05) are directed to appear for a conference before the undersigned on September 12, 2007 at 9:30 a.m.

Dated:

AUG 8 2007



J.S.C.

ENTERED

AUG 13 2007

NASSAU COUNTY
COUNTY CLERK'S OFFICE