

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. THOMAS P. PHELAN,

Justice

TRIAL/IAS PART 3
NASSAU COUNTY

HELMUT SCHERNER and SIEGLINDE SCHERNER,

Plaintiffs,

ORIGINAL RETURN DATE:05/14/10
SUBMISSION DATE: 06/08/10
INDEX No.: 4845/09

-against-

BANK OF AMERICA and BANK OF AMERICA
N.A.,

MOTION SEQUENCE #1

Defendants.

BANK OF AMERICA,

Third-Party Plaintiff,

-against-

CLEARVIEW BUILDING SERVICES, INC.,
CLEARVIEW BUILDING SERVICES and JOHN
ELARDE, D/B/A CLEARVIEW BUILDING
SERVICES,

Third-Party Defendants.

The following papers read on this motion:

Notice of Motion..... 1

Plaintiff's unopposed motion for an order granting leave to file an Amended Verified Complaint asserting a direct cause of action against third-party defendants is granted.

"In the absence of prejudice or surprise to the opposing party, leave to amend a pleading should be freely granted unless the proposed amendment is palpably insufficient or patently devoid of merit" (*RCLA, LLC v. 50-09 Realty, LLC*, 48 A.D.3d 538 [2d Dept. 2008]).

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Plaintiff is directed to serve and file the Amended Verified Complaint within twenty (20) days of the date hereof.

This decision constitutes the order of the court.

Dated: 6-9-10

HON THOMAS P. PHELAN

J.S.C.

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ENTERED

JUN 14 2010

NASSAU COUNTY
COUNTY CLERK'S OFFICE