

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

569

CA 09-01657

PRESENT: CENTRA, J.P., CARNI, LINDLEY, GREEN, AND GORSKI, JJ.

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NEW YORK MUNICIPAL INSURANCE RECIPROCAL,  
AS SUBROGEE OF TOWN OF WOLCOTT,  
PLAINTIFF-RESPONDENT,

V

ORDER

W.P. MAHONEY ENTERPRISES, INC.,  
DEFENDANT-RESPONDENT-APPELLANT,  
AND TITAN STEEL SERVICES, INC.,  
DEFENDANT-APPELLANT-RESPONDENT.

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WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, ALBANY (THOMAS M. WITZ  
OF COUNSEL), FOR DEFENDANT-APPELLANT-RESPONDENT.

LIPPMAN O'CONNOR, BUFFALO (ROBERT H. FLYNN OF COUNSEL), FOR  
DEFENDANT-RESPONDENT-APPELLANT.

CONGDON, FLAHERTY, O'CALLAGHAN, REID, DONLON, TRAVIS & FISHLINGER,  
UNIONDALE (CHRISTINE GASSER OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

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Appeal and cross appeal from an order of the Supreme Court, Wayne  
County (John B. Nesbitt, A.J.), entered June 23, 2009 in a subrogation  
action. The order denied the motion of defendant Titan Steel  
Services, Inc. for summary judgment.

It is hereby ORDERED that said cross appeal is unanimously  
dismissed (*see Moncion v Infra-Metals Corp., Div. of Preussag Intl.*  
*Co.*, 20 AD3d 310, 312; *see also* CPLR 5511) and the order is otherwise  
affirmed without costs.

Entered: April 30, 2010

Patricia L. Morgan  
Clerk of the Court