

**SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY**

**PRESENT: Hon. LOUIS B. YORK**  
**Justice**

**PART 2**

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**In Re: New York City Asbestos Litigation**

**IGNACIO COLLURA, ET AL,**

Plaintiffs,

-against-

**A.O. SMITH WATER PRODUCTS, ET AL**

Defendants.

Index No. 112742/04

Motion Date 08/31/05

Motion Seq. No. 017

Motion Cal. No.     

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The following papers, numbered 1 to            were read on this motion for Severance and Separate Trial

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_

| PAPERS NUMBERED

| \_\_\_\_\_

Answering Affidavits — Exhibits \_\_\_\_\_

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Replying Affidavits \_\_\_\_\_

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| \_\_\_\_\_

**Cross-Motion:**     **Yes**     **No**

Upon the foregoing papers, it is ordered that this motion for an order severing Patterson-Kelly Company from the rest of the Collura case is denied.

Defendant seeks the severance on the basis that it has a pending appeal before the Appellate Division on its motion for summary judgment. Because movant has indicated that it has perfected its appeal and requested that it be expedited, the same issues raised here were undoubtedly raised in their additional request to the Appellate Division for a stay. Both the stay and the request for an expedited appeal were denied. Therefore, this Court will not do what the Appellate Division has refused to do. A separate trial for this one defendant places an

extraordinary burden on this Court and the plaintiff as we might have to repeat so much

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of the expert testimony and exhibits for both sides all over again. Moreover, wherever possible, the Court should assist this dying plaintiff with reaching a final conclusion to this litigation before he dies.

Dated: September 26, 2005

Enter:

Louis B. York, J.S.C.

**Check one:**     **FINAL DISPOSITION**     **NON-FINAL DISPOSITION**

Appearances:

For the Plaintiff:    Belluck and Fox, Esqs.  
295 Madison Avenue 37<sup>th</sup> Floor  
New York, NY  
By: Jordan Fox

For Defendant  
(Goulds Pumps, Inc.): Cullen & Dykman, LLP  
177 Montague Street  
Brooklyn, NY 11201  
By: Theodore Eder & John J. Burbridge, Esqs.