

**EXHIBIT C**

**ORIGINAL**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

----- X  
MANUEL BERMEJO

Plaintiff,

-against-

NEW YORK CITY HEALTH AND HOSPITALS  
CORPORATION, DARWIN CHEN, M.D., DAVID JOSEPH,  
M.D., RICHARD J. WONG, M.D., LOUIS HOGARTH, P.A.,  
AMSTERDAM & 76<sup>TH</sup> ASSOCIATES, LLC.,  
MONADNOCK CONSTRUCTION, INC. AND IBEX  
CONSTRUCTION, L.L.C.,

Defendants.

----- X  
IBEX CONSTRUCTION, L.L.C.,

Third-Party Plaintiff(s),

-against-

MARBLE TECHNIQUES, INC.,

Third-Party Defendants.

----- X  
AMSTERDAM & 76<sup>TH</sup> ASSOCIATES, LLC

Second Third-Party Plaintiff(s),

-against-

EQUINOX HOLDINGS, INC., EQUINOX 76<sup>TH</sup> STREET,  
INC., EQUINOX-76<sup>TH</sup> STREET, INC., ECLIPSE  
DEVELOPMENT INC., ECLIPSE DEVELOPMENT  
CORPORATION

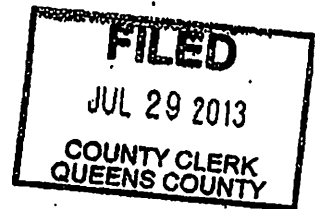
Second Third-Party Defendants.  
----- X

Index No: 23985/09

SECOND  
AMENDED ORDER

Third Party  
Index No.: 350271/10

Second Third Party  
Index No.:



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

Action No. 2

-----X  
MARBLE TECHNIQUES, INC.,

Index No.: 4078/12

Plaintiffs,

-against-

EVEREST ANTIONAL INSURANCE CO.,

Defendant.  
-----X

UPON reading and the filing of the Affirmation of Scott L. Gumpert, Esq., counsel for Defendant/Third-Party Plaintiff, IBEX CONSTRUCTION, LLC. in Action No. 1 dated the 7<sup>th</sup> day of June, 2013 and the annexed exhibits, in support of a Motion by Order to Show Cause for an Order pursuant to CPLR §3121 granting a re-examination of plaintiff by an orthopedist designated by defendants; an order disqualifying Plaintiff's counsel based on Rule 3.7 of the Rules of Professional Conduct; an order pursuant to CPLR §2304 to quash the subpoenas *duces tecum* served upon Sheldon P. Feit, M.D. and Michael J. Katz, M.D.; sanctions against plaintiff's counsel for the costs of the first trial and for such other and further relief as to this Court may deem just and proper; and

UPON reading and the filing of the Affirmation of Richard L. Mendelsohn, Esq., counsel for Defendant/Second Third-Party Plaintiffs, AMSTERDAM & 76<sup>TH</sup> ASSOCIATES, LLC. ("Amsterdam") in Action No. 1 dated the 7<sup>th</sup> day of June, 2013 and the annexed exhibits, in support of a Motion by Order to Show Cause for an Order pursuant to Rule 3.7 of the Rules of Professional Conduct, NYCRR 202.17 and controlling case law seeking disqualification of Plaintiff's counsel and for such other and further relief as this Court deems just and proper; and

UPON reading and the filing of the Affirmation of Richard L. Mendelsohn, Esq., counsel for Defendant/Second Third-Party Plaintiffs Amsterdam in Action No.1 dated the 7<sup>th</sup> day of June, 2013 and the annexed exhibits in support of a Motion by Order to Show Cause for an Order pursuant CPLR §2304 to quash the subpoenas *duces tecum* served upon Sheldon P. Feit, M.D. and Michael J. Katz, M.D. and for such other and further relief as this Court may deem just and proper; and

UPON the oral applications and Amsterdam's Brief in Support of the Motion for Sanctions against Plaintiff's counsel dated July 1, 2013; and

UPON reading and the filing of the Affirmation of Richard L. Mendelsohn, Esq., dated June 28, 2013 and the oral applications on behalf of Amsterdam joining in and in support of the request for a further examination of Plaintiff by an orthopedist designated by the Defendants; and

UPON reading and the filing of the Affirmation of Kevin P. Connolly, Esq., dated June 28, 2013, counsel for Plaintiff in Action No. 1 and the Affidavit of Patrick Hackett, Esq., dated the 28<sup>th</sup> day of June, 2013 and the annexed exhibits in opposition to said Motions; and

UPON the oral argument conducted before this Court; and

UPON due deliberation being had thereof; and;

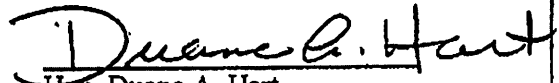
UPON the Order of this Court dated July 8, 2013;

**IT IS ORDERED**, that the applications sought in the instant motions and applications for a re-examination of Plaintiff by an orthopedist of Defendants' choosing is denied.

**IT IS FURTHER ORDERED**, that the applications sought in the instant motions and oral argument for an order disqualifying Plaintiff's counsel and for sanctions against Plaintiff's counsel are denied.

**IT IS FURTHER ORDERED**, that the applications sought in the instant motions are granted insofar as quashing the subpoenas *duces tecum* directed toward Dr. Michael J. Katz and Dr. Sheldon P. Feit.

Dated: July 26, 2013



Hon. Duane A. Hart

J.S.C.

HON. DUANE A. HART

