

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
HON. MARTIN SHULMAN NEW YORK COUNTY

Index Number : 190219/2016

MCGLYNN, THOMAS

vs

AERCO INTERNATIONAL INC.

Sequence Number : 040

OTHER RELIEFS

PART 1

INDEX NO. _____

MOTION DATE _____

MOTION SEQ. NO. _____

The following papers, numbered 1 to 3, were read on this motion ~~to~~ for post-trial relief

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits	<u>A-Q</u>	No(s). <u>1</u>
Answering Affidavits — Exhibits	<u>1-49</u>	No(s). <u>2</u>
Replying Affidavits	<u>- Exh. 1</u>	No(s). <u>3</u>

Upon the foregoing papers, it is ordered that this motion is decided in accordance
with the decision spread upon the record on
December 4, 2017.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: DEC 14 2017


, J.S.C.

HON. MARTIN SHULMAN
☒ NON-FINAL DISPOSITION

1. CHECK ONE: ☐ CASE DISPOSED2. CHECK AS APPROPRIATE: MOTION IS: ☐ GRANTED ☐ DENIED ☐ GRANTED IN PART ☐ OTHER3. CHECK IF APPROPRIATE: ☐ SETTLE ORDER ☐ SUBMIT ORDER

1 SUPREME COURT OF THE STATE OF NEW YORK
2 NEW YORK COUNTY : CIVIL TERM : PART 1

3 -----
4 THOMAS MCGLYNN,

5 Plaintiff,

6 -against-

7 AERCO INTERNATIONAL, INC., et al.,

8 Defendants. PROCEEDING

9 -----
10 December 4, 2017

11 60 Centre Street
12 New York, New York

13 B E F O R E:

14 HON. MARTIN SHULMAN, Justice

15 A P P E A R A N C E S:

16 SIMMONS HANLY CONROY
17 Attorneys for the Plaintiff
18 112 Madison Avenue
19 New York, New York 10016
20 BY: JAMES KRAMER, ESQ.
21 LAURENCE VALERE NASSIF, ESQ.

22 CLYDE & CO. US LLP
23 Attorneys for the Defendant
24 The Chrysler Building
25 405 Lexington Avenue
New York, New York 10174
BY: JEFFREY FEGAN, ESQ.
PETER DINUNZIO, ESQ.

Anne Marie Scribano
Senior Court Reporter

Proceedings

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1 THE COURT: Good afternoon.

2 Before the Court are two post-verdict motions. We
3 have both. On behalf of Jenkins Brothers, there is a
4 post-verdict motion for judgment, notwithstanding the
5 verdict, raising a number of issues. On the other side, we
6 have the plaintiff, with a motion for additur.

7 On the table are hard copies of various papers
8 presented on this round of post-verdict motion practice.
9 Everything has been E-Filed. I leave it to respective
10 counsel to make sure your respective papers are in order for
11 purposes of appellate review.

12 I want to emphasize at this time that I'm not
13 going to go through every single argument. Your papers,
14 respectively and respectfully, speak for themselves. I have
15 made it very clear from the inception of this trial -- from
16 the inception of jury selection that I have preserved each
17 party's rights with respect to objections, exceptions. From
18 my point of view, there was no waiver of any of those
19 objections or exceptions, so we don't need to reiterate all
20 of them.

21 To the extent that I have received a stipulation
22 on a particular point, the parties can debate the scope and
23 breadth of that stipulation. But putting that issue aside,
24 I believe there were discussions in the papers concerning
25 use of interrogatories, so we understand what we're talking

Proceedings

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1 about, we'll get there, but that's the only area there can
2 be a debate about waiver. From my point of view, all rights
3 are fully preserved for all parties.

4 Fair enough?

5 MR. KRAMER: Fair enough.

6 MR. FEGAN: Yes, Judge.

7 THE COURT: There are no particular issues that
8 are of greater importance, they are all important, but I may
9 take certain issues out of turn, even though they were put
10 in your respective briefs or memoranda in a certain order,
11 just to get rid of that issue or address it earlier because
12 I perceive it to be an easier type of issue that will not
13 necessarily lend itself to extensive colloquy.

14 That said, to quickly summarize Jenkins Brothers'
15 position -- hereinafter we will refer to the defendant as
16 Jenkins and we will refer to the decedent, Thomas McGlynn,
17 as the plaintiff on this record -- Jenkins contends that it
18 should be awarded a JNOV because:

19 Dr. Moline's causation opinion was invalid based
20 on Dummitt and Juni.

21 Her opinion was based on facts not in evidence.

22 Jenkins did not bear any responsibility for
23 thermal insulation applied by others.

24 And ship owners' and Brady Marine's failure to
25 follow workplace safety was an intervening cause and broke



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