

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

M71518  
S/sl

ROBERT A. SPOLZINO, J.P.  
FRED T. SANTUCCI  
RANDALL T. ENG  
JOHN M. LEVENTHAL, JJ.

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2008-00954

DECISION & ORDER ON MOTION

Tetri Shanker, appellant,  
v Costco Wholesale, respondent.

(Index No. 9649/05)

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Application by the appellant pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to perfect an appeal from an order of the Supreme Court, Queens County, dated January 4, 2008.

Now, on the court's own motion, it is

ORDERED that the appeal is dismissed, without costs or disbursements, as no appeal lies from an order entered upon the appellant's default (*see Marino v Termini*, 4 AD3d 342); and it is further,

ORDERED that the application is denied as academic.

SPOLZINO, J.P., SANTUCCI, ENG and LEVENTHAL, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

June 6, 2008

SHANKER v COSTCO WHOLESALE