

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

M72293
E/cb

ROBERT A. SPOLZINO, J.P.
ROBERT A. LIFSON
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2006-6192, 2008-05060

DECISION & ORDER ON

MOTION

Frank Gandolfi, appellant,
v Grace Gandolfi, respondent.

(Index Nos. 21422/03, 14110/06)

Motion by Frank Gandolfi (1) for leave to appeal to this court from an order of the Supreme Court, Suffolk County, dated April 22, 2008 (Appellate Division Docket No. 2008-05060), (2) in effect, to recall and vacate so much of a decision and order on motion of this court, entitled "In the Matter of the Dismissal of Causes for Failure to Perfect - January 2007 Calendar," dated February 5, 2007, as dismissed an appeal from an order of the same court dated June 8, 2006 (Appellate Division Docket No. 2006-06192), pursuant to 22 NYCRR 670.8(e) for failure to timely perfect, to reinstate that appeal, and to enlarge the time to perfect that appeal, and (3) to stay all "post-judgment proceedings" in the action commenced in the Supreme Court, Suffolk County, under Index No. 14110/06 pending hearing and determination of the appeals.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the branch of the motion which is for leave to appeal to this court from the order dated April 22, 2008 (Appellate Division Docket No. 2008-05060), is denied as unnecessary as the order is appealable as of right (*see* CPLR 5701); and it is further,

ORDERED that the motion is otherwise denied.

SPOLZINO, J.P., LIFSON, DICKERSON and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer

June 25, 2008

GANDOLFI v GANDOLFI

Clerk of the Court

June 25, 2008

GANDOLFI v GANDOLFI