

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

M76547
S/sl

PETER B. SKELOS, J.P.
HOWARD MILLER
EDWARD D. CARNI
CHERYL E. CHAMBERS, JJ.

2007-03586, 2007-03587

DECISION & ORDER ON MOTION

In the Matter of Elaine Sassower-Berlin,
petitioner-respondent, v Leonard Berlin,
executor of the estate of Stephen Berlin,
respondent-appellant; Barbara Kopman,
nonparty-appellant.

(Docket Nos. V-11995-04, V-11996-04,
V-11997-04)

Motion by the petitioner-respondent to dismiss appeals from two orders of the Family Court, Suffolk County, both dated March 14, 2007, on the ground that the respondent-appellant has died, and to recall and vacate a decision and order on motion of this court dated May 17, 2007, which stayed enforcement of the orders pending hearing and determination of the appeals. Cross motion by Leonard Berlin for leave to intervene to oppose the motion. By decision and order on motion dated June 6, 2008, the motion and cross motion were held in abeyance pending appointment of a personal representative for the estate of the respondent-appellant, Stephen Berlin. Application by the respondent-appellant to substitute Leonard Berlin, executor of the estate of Stephen M. Berlin, for the deceased respondent-appellant Stephen Berlin.

Upon the papers filed in support of the application, and the papers filed in support and opposition to the motion and cross motion, it is

ORDERED that the application is granted and Leonard Berlin, executor of the estate of Stephen M. Berlin, is substituted for the deceased respondent-appellant Stephen Berlin, and the caption has been amended accordingly; and it is further,

October 1, 2008

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ORDERED that the branch of the cross motion which was for leave to file opposition to the motion of the appellant-respondent to dismiss the appeal and to file a cross motion to dismiss the appellant-respondent's motion is granted and the respondent-appellant shall serve and file any opposition to the motion and/or any cross motion on or before October 10, 2008; and it is further,

ORDERED that the branch of the cross motion which is for leave to intervene is denied as unnecessary in light of the substitution set forth above.

SKELOS, J.P., MILLER, CARNI and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court