

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

M76616
E/sl

FRED T. SANTUCCI, J.P.
MARK C. DILLON
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2007-05600

DECISION & ORDER ON MOTION

Wells Fargo Bank, etc., respondent,
v Dennis Libertelli, appellant, et al., defendants.

(Index No. 100483/06)

Motion by the appellant 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 - February 2008 Calendar," dated March 4, 2008, as dismissed an appeal from an order of the Supreme Court, Richmond County, dated April 24, 2007, pursuant to 22 NYCRR 670.8(e) for failure to timely perfect the same, to reinstate the appeal, to enlarge the time to perfect the appeal, and to waive the requirements of 22 NYCRR 670.10.2(f) regarding certification of the record on appeal.

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

ORDERED that the branches of the motion which are to recall and vacate so much of the decision and order on motion of this court dated March 4, 2008, as dismissed the appeal from the order dated April 24, 2007, and to reinstate the appeal are denied; and it is further,

ORDERED that the branches of the motion which are to enlarge the time to perfect the appeal and to waive the requirements of 22 NYCRR 670.10.2(f) regarding certification of the record on appeal are denied as academic.

SANTUCCI, J.P., DILLON, DICKERSON and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

October 3, 2008

WELLS FARGO BANK v LIBERTELLI