

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

M77108
E/sl

REINALDO E. RIVERA, J.P.
PETER B. SKELOS
STEVEN W. FISHER
RUTH C. BALKIN, JJ.

2005-07297

DECISION & ORDER ON MOTION

Domenico Monaco, appellant, et al., plaintiff,
v Benjamin Van Meerendonk, et al., respondents.

(Index No. 7774/90)

Motion by the appellant, in effect, to recall and vacate so much of a decision and order on motion of this court dated May 31, 2007, as dismissed an appeal from a judgment of the Supreme Court, Kings County, dated August 10, 2005, to reinstate the appeal, and to enlarge the time to perfect the appeal.

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

ORDERED that the motion is granted, and the decision and order on motion of this court dated May 31, 2007, is recalled and vacated; and it is further,

ORDERED that on the court's own motion, the appeal will be heard on the original papers (including a certified transcript of the proceedings, if any) and on the appellant's and the respondents' briefs; the parties are directed to file nine copies of their respective briefs and to serve one copy on each other; and it is further,

ORDERED that on or before November 14, 2008, the appellant shall settle the transcript in accordance with CPLR 5525(c) and certify the same pursuant to 22NYCRR 670.10.2 (f); and it is further,

October 15, 2008

MONACO v MEERENDONK


Page 1.

ORDERED that on or before November 14, 2008, the parties shall each file all trial exhibits in their possession with the Clerk of this court, in the event that any of the original exhibits cannot be found; the appellant may either move for leave to perfect the appeal without the missing exhibits or for a reconstruction hearing; and it is further,

ORDERED that the appellant's time to perfect the appeal by causing the original papers constituting the record on the appeal to be filed in the office of the Clerk of this court (*see* 22 NYCRR 670.9[d][2]) and by serving and filing his brief is enlarged until December 15, 2008.

RIVERA, J.P., SKELOS, FISHER and BALKIN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court