

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

M77657  
E/cb

ROBERT A. SPOLZINO, J.P.  
ANITA R. FLORIO  
WILLIAM E. McCARTHY  
THOMAS A. DICKERSON, JJ.

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2008-08463

DECISION & ORDER ON MOTION

Jin Ma, appellant, et al., plaintiff,  
v Amanda L. Smith, respondent.

(Index No. 5222/06)

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Motion by the respondent to dismiss an appeal from a decision of the Supreme Court, Suffolk County, dated May 27, 2008, on the ground that it was untimely taken.

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

ORDERED that on the court's own motion, the appeal is dismissed, without costs or disbursements, on the ground that no appeal lies from a decision (*see Schicchi v J.A. Green Constr. Co.*, 100 AD2d 509); and it is further,

ORDERED that the motion is denied as academic.

SPOLZINO, J.P., FLORIO, McCARTHY and DICKERSON, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

October 27, 2008

JIN MA v SMITH