

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

M77821
M/cb

2008-07155

ORDER TO SHOW CAUSE

Teresita Clair, respondent,
v Edward Clair, appellant.

(Index No. 29732/06)

Appeal by Edward Clair from a judgment of the Supreme Court, Suffolk County, entered July 10, 2008. By scheduling order dated September 16, 2008, the appellant was directed to file one of the following in the office of the clerk of the court, within 30 days after the date of the scheduling order:

- (1) an affidavit or affirmation stating that there were no minutes of the proceedings to be transcribed for the appeal; or
- (2) if there were such minutes, an affidavit or affirmation that the transcript was received, and indicating the date that it was received; or
- (3) if the transcript was not received, an affidavit or affirmation stating that it was ordered and paid for, the date thereof and the date by which the transcript was expected; or
- (4) an affidavit or an affirmation withdrawing the appeal.

The appellant has failed to comply with the scheduling order. Pursuant to § 670.4(a)(5) of the rules of this court (22 NYCRR 670.4[a][5]), it is

ORDERED that the parties or their attorneys are directed to show cause before this court why an order should or should not be made and entered dismissing the appeal in the above-entitled proceeding for failure to comply with the scheduling order dated September 16, 2008, by each filing an affirmation or affidavit on that issue in the office of the Clerk of this court and serving one copy of the same on each other on or before November 19, 2008; and it is further,

October 30, 2008

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ORDERED that the Clerk of this court, or his designee, is directed to serve a copy of this order to show cause upon the parties or their attorneys by regular mail.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial 'J'.

James Edward Pelzer
Clerk of the Court