

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

M78063  
S/sl

MARK C. DILLON, J.P.  
DANIEL D. ANGIOLILLO  
EDWARD D. CARNI  
RANDALL T. ENG, JJ.

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2008-05027

DECISION & ORDER ON MOTION

Blustein, Shapiro & Rich, LLP, respondent,  
v Jack Lefkowitz, appellant.

(Index No. 08-697)

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Motion by the respondent to dismiss an appeal from an order of the Supreme Court, Orange County, dated May 13, 2008, on the ground that a default judgment has been entered in the action. By decision and order on motion dated July 11, 2008, the motion and the appeal were held in abeyance pending determination of the appellant's motion to vacate his default. Application by the appellant to withdraw the appeal.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, and upon the application to withdraw the appeal and no papers having been filed in opposition thereto, it is

ORDERED that the application is granted and the appeal is deemed withdrawn, without costs or disbursements; and it is further,

ORDERED that on the court's own motion the decision and order on motion dated July 11, 2008, is recalled and vacated and the motion to dismiss the appeal is denied as academic.

DILLON, J.P., ANGIOLILLO, CARNI and ENG, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

November 3, 2008

BLUSTEIN, SHAPIRO & RICH, LLP v LEFKOWITZ