

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

M78711
M/cb

2008-06861

ORDER TO SHOW CAUSE

In the Matter of James Secor, et al., appellants,
v Amy Melissa Acosta, etc., et al., respondents.

(Index No. 0155/07)

Appeal by James Secor and Anne Secor from an order of the Supreme Court, Dutchess County, dated July 3, 2008. By scheduling order dated July 29, 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 Family Court 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) if the appellant was indigent and could not afford to obtain the minutes or perfect the appeal, a motion in this court for leave to prosecute the appeal as a poor person and for the assignment of counsel, pursuant to the requirements of CPLR 1101; or
- (5) an affidavit or an affirmation withdrawing the appeal.

The appellant notified this court that no transcripts were needed to perfect the appeal, but failed to perfect the appeal within 60 days of the date of the scheduling order. Pursuant to § 670.4(a)(5) of the rules of this court (22 NYCRR 670.4[a][5]), it is

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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 July 29, 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 December 5, 2008; and it is further,

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 style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court