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

M78821
M/cb

2008-10307 SCHEDULING ORDER

In the Matter of Catherine Varricchio,
respondent, v Kenneth Varricchio, appellant.

(Docket Nos. V-1909-04, V-1910-04)

Appeal by Kenneth Varricchio from an order of the Family Court, Nassau County, dated October 10, 2008. Pursuant to § 670.4(a) of the Rules of this court (22 NYCRR 670.4[a]), it is

ORDERED that the appeal in the above-entitled proceeding shall be perfected within 60 days after the receipt by the appellant of the transcripts of the minutes of the proceedings in the Family Court, and the appellant shall notify this court by letter of the date the transcripts are received, or, in cases where there are no minutes of proceedings to be transcribed, within 60 days of the date of this scheduling order; and it is further,

ORDERED that within 30 days after the date of this scheduling order, the appellant shall file in the office of the Clerk of this court one of the following:

(1) an affidavit or affirmation stating that there are no minutes of the Family Court proceedings to be transcribed for the appeal; or

(2) if there are such minutes, an affidavit or affirmation that the transcript has been received, and indicating the date that it was received; or

(3) if the transcript has not been received, an affidavit or affirmation stating that it has been ordered and paid for, the date thereof and the date by which the transcript is expected; or

(4) if the appellant is indigent and cannot 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. Such a

motion must be supported by an affidavit from the appellant, stating either that he or she qualified for assigned counsel upon application to the Family Court and that his or her financial status has not changed since that time, or that he or she had retained counsel or appeared pro se in the Family Court, and listing his or her assets and income; or

(5) an affidavit or an affirmation withdrawing the appeal; and it is further,

ORDERED that if none of the actions described in (1), (2), (3), (4), or (5) above has been taken within 30 days of the date of this scheduling order, the Clerk of the court shall issue an order to all parties to the appeal to show cause why the appeal should or should not be dismissed.

ENTER:

James Edward Pelzer
Clerk of the Court

The Case Manager assigned to this case is Ms. Vazquez. Please contact her at 718-722-6488 with any questions.