

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

M79059
E/sl

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
EDWARD D. CARNI
RANDALL T. ENG, JJ.

2008-04527

DECISION & ORDER ON MOTION

Deutsche Bank National Trust Company, etc.,
appellant, v Nilda Martinez, respondent, et al.,
defendants.

(Index No. 103361/06)

Motion by the appellant to stay all proceedings in the above-entitled action pending hearing and determination of an appeal from an order of the Supreme Court, Queens County, dated November 7, 2007, to strike the respondent's brief on the ground that it refers to matter dehors the record and direct the respondent to serve and file a new brief, and to enlarge the time to serve and file a reply brief.


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 as of right from an order which directs a hearing to aid in the disposition of a motion (*see Bagdy v Progresso Foods Corp.*, 86 AD2d 589), and we decline to grant leave to appeal; and it is further,

ORDERED that the motion is denied as academic.

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

ENTER:


James Edward Pelzer
Clerk of the Court

November 26, 2008

DEUTSCHE BANK NATIONAL TRUST COMPANY v MARTINEZ