

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

M79158
E/sl

ROBERT A. SPOLZINO, J.P.
MARK C. DILLON
EDWARD D. CARNI
JOHN M. LEVENTHAL, JJ.

2007-11020, 2007-11021

DECISION & ORDER ON MOTION

State Insurance Fund, respondent,
v American Hardware Mutual Insurance
Company, et al., appellants.

(Index No. 25718/98)

Motion by the appellants, inter alia, to strike the record on appeals from a judgment of the Supreme Court, Nassau County, dated October 19, 2007, and an order of the same court dated October 22, 2007, as inadequate, and to dismiss the appeal from the judgment on the ground that “[t]he purported [j]udgment appealed from was not a final [j]udgment that had been entered in the Nassau County Clerk’s Office”.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the branch of the motion which is to strike the record is granted to the extent that on or before December 29, 2008, the appellants shall serve and file a supplemental record containing (1) an order of the Supreme Court, Nassau County, dated September 10, 2004, and the papers submitted in support and in opposition to the motion on which the order is based (2) a copy of the judgment dated October 19, 2007, and entered October 24, 2007, which is attached to papers filed in support of the instant motion as Exhibit 1, and that branch of the motion is otherwise denied; and it is further,

ORDERED that the branch of the motion which is to dismiss the appeal from the judgment on the ground that “[t]he purported [j]udgment appealed from was not a final [j]udgment that had been entered in the Nassau County Clerk’s Office” is denied (*see* CPLR 2001; 5512; 5520[c]); and it is further,

December 2, 2008


Page 1.

STATE INSURANCE FUND v AMERICAN HARDWARE MUTUAL
INSURANCE COMPANY

ORDERED that the on the court's own motion, the respondent's time to serve and file a brief is enlarged until January 28, 2009, and the respondent's brief must be served and filed on or before that date.

SPOLZINO, J.P., DILLON, CARNI and LEVENTHAL, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court