

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

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2008-04381

ORDER ON APPLICATION  
Application to Withdraw Appeal

Roy Smith, plaintiff-respondent,  
v West 125<sup>th</sup> Realty Corp., appellant,  
Mobay Uptown Restaurant & Barbecue, Inc.,  
defendant-respondent, et al., defendant.

(Index No. 2872/04)

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Application by the appellant to withdraw an appeal from an order of the Supreme Court, Kings County, dated April 4, 2008.

Upon the papers filed in support of the application and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the application is granted and the appeal is marked withdrawn.

ENTER:



James Edward Pelzer  
Clerk of the Court

December 3, 2008

SMITH v WEST 125<sup>TH</sup> REALTY CORP