

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

M79432
E/sl

WILLIAM F. MASTRO, J.P.
HOWARD MILLER
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2008-08960

DECISION & ORDER ON MOTION

Board of Directors of Hill & Dale Homeowners
Association, Inc., respondent, v Jean Cappello,
defendant, Amy Cappello, appellant.

(Index No. 1055/08)

Motion by the appellant to stay enforcement of an order of the Supreme Court, Putnam County, dated September 10, 2008, pending hearing and determination of an appeal therefrom, and to waive the requirements of 22 NYCRR 670.10.2(f) regarding certification of the record on appeal.

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 that is not the result of a motion made on notice (*see* CPLR 5701), and we decline to grant leave to appeal; and it is further,

ORDERED that the motion is denied as academic.

MASTRO, J.P., MILLER, CARNI and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 4, 2008

BOARD OF DIRECTORS OF HILL & DALE HOMEOWNERS ASSOCIATION, INC. v
CAPPELLO