

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

M80254
E/sl

PETER B. SKELOS, J.P.
MARK C. DILLON
WILLIAM E. McCARTHY
RANDALL T. ENG, JJ.

2007-08750, 2008-08191

DECISION & ORDER ON MOTION

Dolores Johnson, etc., et al., appellants,
v Israel Jacobowitz, etc., et al., respondents.
(Appeal No. 1)

Dolores Johnson, etc., et al., respondents-appellants,
v Israel Jacobowitz, etc., et al., appellants-respondents,
Mario Sabado, etc., respondent.
(Appeal No. 2)

(Index No. 9431/03)

Motion by Dolores Johnson as administratrix of the estate of Evangeline Johnson, and Dolores Johnson, individually, in effect, to consolidate an appeal from an order of the Supreme Court, Kings County, dated June 22, 2007 (Appellate Division Docket No. 2007-08750), with an appeal and cross appeal from a judgment of the same court entered August 21, 2008 (Appellate Division Docket No. 2008-08191), and for leave to perfect the appeal and cross appeal from the judgment entered August 21, 2008, by serving and filing a supplemental joint record or appendix containing papers that are not contained in the appendix filed in connection with the appeal from the order dated June 22, 2007.

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

ORDERED that the motion is granted to the extent that the appeal from the order dated June 22, 2007 (Appellate Division Docket No. 2007-08750), and the appeal and cross appeal from the judgment entered August 21, 2008 (Appellate Division Docket No. 2008-08191), will be calendared together and will be argued or submitted on the same day, and the appendix filed in connection with the appeal from the order shall be deemed to be part of the record or appendix for the appeal and cross appeal from the judgment; and it is further,

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ORDERED that on or before January 21, 2009, Dolores Johnson as administratrix of the estate of Evangeline Johnson, and Dolores Johnson, individually, shall serve and file the joint supplemental record or appendix with respect to the appeal and cross appeal from the judgment and, if so advised, a supplemental brief raising additional issues relating to the judgment; and it is further,

ORDERED that on or before February 25, 2009, Israel Jacobowitz and New York Cardiothoracic Surgeons, P.C., if so advised, shall serve and file a supplemental brief, raising additional issues relating to the judgment; and it is further,

ORDERED that the briefs responding to the above briefs shall be served and filed in accordance with the rules of the court; and it is further,

ORDERED that the briefs filed in connection with the appeal and cross appeal from the judgment may cite to the appendix filed in connection with the appeal from the order; and it is further,

ORDERED that the motion is otherwise denied.

SKELOS, J.P., DILLON, McCARTHY and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court