

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

M85812  
E/cb

A. GAIL PRUDENTI, P.J.  
HOWARD MILLER  
RANDALL T. ENG  
ARIEL E. BELEN, JJ.

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2007-10914

DECISION & ORDER ON MOTION

Norman Michael Gourdine, as executor of  
the estate of Harry N. Gourdine, appellant,  
v Village of Ossining, et al., respondents.

(Index No. 6544/06)

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Motion by the respondents Cappelli Enterprises, Inc., Ginsburg Development Corp., and Harbor Square, LLC, to dismiss an appeal from an order of the Supreme Court, Westchester County, entered October 19, 2007, for failure to timely perfect and on the ground that no substitution of a personal representative was made for the decedent, Harry N. Gourdine. Application by Norman Michael Gourdine, as executor of the estate of the deceased appellant, to be substituted as the personal representative for the deceased appellant.

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


ORDERED that the application is granted, Norman Michael Gourdine, as executor of the estate of the deceased appellant, is substituted as the personal representative for the deceased appellant, and the caption is amended accordingly; and it is further,

ORDERED that the branch of the motion which is to dismiss on the ground that no substitution of a personal representative was made for the decedent, Harry N. Gourdine, is denied as academic; and it is further,

ORDERED that the branch of the motion which is to dismiss for failure to timely perfect is denied on condition that the appeal is perfected on or before June 11, 2009.

PRUDENTI, P.J., MILLER, ENG and BELEN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

April 27, 2009

GOURDINE v VILLAGE OF OSSINING