

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

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ROBERT A. SPOLZINO, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2008-11262

DECISION & ORDER ON MOTION

Kathryn M. Boone, appellant,
v Joel C. Bender, et al., respondents.

(Index No. 6792/03)

Motion by the respondents to dismiss an appeal from an order of the Supreme Court, Westchester County, entered November 6, 2008, pursuant to CPLR 3104(d), or to enlarge their time to serve and file a brief. Separate motion by the respondents to strike the record on the ground that it contains matter de hors the record. Application by the appellant for leave to appeal to this court from the order entered November 6, 2008.

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

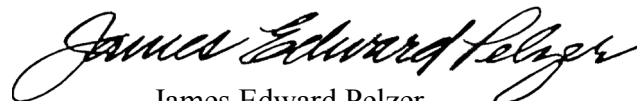
ORDERED that the branch of the motion which is to dismiss the appeal is granted and the appeal is dismissed, without costs or disbursements (*see* CPLR 3104[d]); and it is further,

ORDERED that the branch of the motion which is to enlarge the respondents' time to serve and file a brief and the motion to strike the record brief are denied as academic; and it is further,

ORDERED that the application is denied.

SPOLZINO, J.P., COVELLO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 5, 2009

BOONE v BENDER