

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

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E/cb

PETER B. SKELOS, J.P.
STEVEN W. FISHER
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2009-02624

DECISION & ORDER ON MOTION

Sandra Delpriore, respondent, v Eger
Health Care & Rehabilitation Center,
appellant (and a third-party action).

(Index No. 103006/06)

Motion by the appellant to stay the trial in the above-entitled action pending hearing and determination of an appeal from an order of the Supreme Court, Richmond County, dated February 24, 2009.

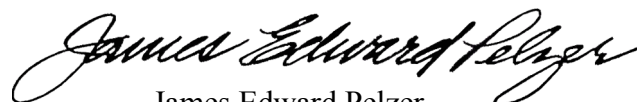
Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that on the court's own motion, the appeal is dismissed, without costs or disbursements, on the ground that no appeal lies from an order determining the admissibility of evidence in advance of trial (*see Citlak v Nassau County Medical Center*, 37 AD3d 640; *Winograd v Price*, 21 AD3d 956; *Chateau Rive Corp., Enclave Dev. Assoc.*, 283 AD2d 537); and it is further,

ORDERED that the motion is denied as academic.

SKELOS, J.P., FISHER, BELEN and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 4, 2009

DELPRIORE v EGER HEALTH CARE & REHABILITATION CENTER