

**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.

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2008-01938

DECISION & ORDER ON MOTION

In the Matter of Paula M. Venezia, deceased.  
Joanne Zaccaria, appellant; Edward H.  
Pennington, III, respondent.

(File No. 2100/03)

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Motion by the respondent on an appeal from an order of the Surrogate's Court, Kings County, dated October 16, 2007, inter alia, to waive the requirements of 22 NYCRR 670.10.2(f) regarding certification of the respondent's appendix. By decision and order on motion of this court dated February 6, 2009, that branch of the respondent's motion was held in abeyance pending service and filing of the respondent's brief and additional volumes of the respondent's appendix. Motion by the appellant to strike the respondent's brief and three-volume appendix. Cross motion by the respondent, inter alia, for leave to file a corrected respondent's brief and appendix, and to dispense with oral argument or provide for an alternative procedure that excuses his physical appearance.

Upon the papers filed in support of the motion, inter alia, to waive the requirements of 22 NYCRR 670.10.2(f) regarding certification of the respondent's appendix, the motion to strike the respondent's brief and three-volume appendix, and the cross motion, and papers filed in opposition thereto, it is

ORDERED that the motion to strike the respondent's brief and three-volume appendix, and the cross motion are denied; and it is further,

ORDERED that the branch of the motion which is to waive the requirements of 22 NYCRR 670.10.2(f) regarding certification of the respondent's appendix is granted; and it is further,

May 4, 2009

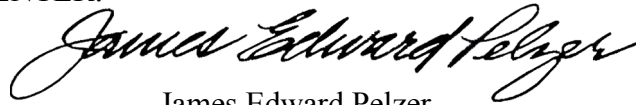
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ORDERED that the appellant's time to serve and file a reply brief is enlarged until May 19, 2009, and the reply brief must be served and filed on or before that date.

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

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer  
Clerk of the Court