

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

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WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2009-00954, 2009-02057

DECISION & ORDER ON MOTION

Saverio C. Pugliese, appellant-respondent,
v Ben Mondello, etc., respondent-appellant.
(Appeal No. 1)

Saverio C. Pugliese, appellant, v Ben Mondello,
etc., respondent.
(Appeal No. 2)

(Index No. 19172/06)

On the court's own motion, it is

ORDERED that its decision and order on motion dated May 7, 2009, in the above-entitled matter, is recalled and vacated and the following decision and order on motion is substituted therefor:

Motion by *Saverio C. Pugliese* on an appeal and cross appeal from an order of the Supreme Court, Nassau County, dated January 16, 2009, and an appeal from an order of the same court dated February 10, 2009, inter alia, to stay enforcement of the order of the same court dated February 10, 2009, as well as all proceedings in the above-entitled action, pending hearing and determination of the appeals and cross appeal, and to dismiss the cross appeal from the order dated January 16, 2009, on the ground that *Ben Mondello* has not paid for his share of the costs of the joint record.

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

ORDERED that the branch of the motion which is to dismiss the cross appeal is denied, as academic, as *Ben Mondello* has paid his share of the costs; and it is further,

May 13, 2009

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ORDERED that the motion is otherwise denied.

MASTRO, J.P., FLORIO, ENG and CHAMBERS, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court

May 13, 2009

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