

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

M86791
E/sl

STEVEN W. FISHER, J.P.
MARK C. DILLON
JOSEPH COVELLO
THOMAS A. DICKERSON, JJ.

2008-05865, 2008-05866

DECISION & ORDER ON MOTION

Nick DiNozzi, appellant,
v Anna DiNozzi, respondent.

(Index No. 74-07)

Motion by the appellant to recall and vacate so much of a decision and order on motion of this court, entitled "In the Matter of the Dismissal of Causes for Failure to Perfect - February 2009 Calendar," dated March 17, 2009, as dismissed an appeal from a decision of the Supreme Court, Suffolk County, dated May 20, 2008, pursuant to 22 NYCRR 670.8(e) for failure to timely perfect, to reinstate the appeal, and to enlarge the time to perfect that appeal as well as an appeal from an order of the same court dated May 29, 2008.

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

ORDERED that the motion is granted; and it is further,

ORDERED that so much of the decision and order on motion of this court dated March 17, 2009, as dismissed the appeal from the decision dated May 20, 2008 (Appellate Division Docket No. 2008-05865) is recalled and vacated; and it is further,

ORDERED that on the court's own motion, the notice of appeal from the decision is deemed to be a premature notice of appeal from a judgment of the same court entered April 10, 2009 (*see* CPLR 5520[c]); and it is further,

May 19, 2009

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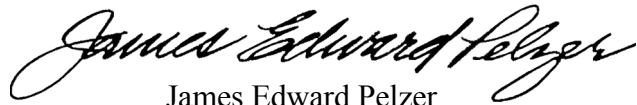
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ORDERED that the appellant's time to perfect the appeals is enlarged until June 18, 2009, and the record on appeal and the appellant's brief must be served and filed on or before that date; and it is further,

ORDERED that no further enlargement of time shall be granted.

FISHER, J.P., DILLON, COVELLO and DICKERSON, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court