

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

M87102
E/sl

STEVEN W. FISHER, J.P.
HOWARD MILLER
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2008-11091

DECISION & ORDER ON MOTION

Benjamin Velez, appellant,
v Ynes Rodriguez, respondent.

(Index No. 102537/07)

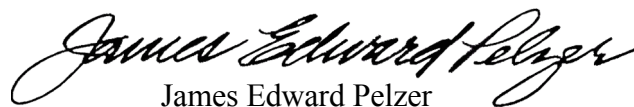
Motion by the appellant pro se for leave to reargue his prior motion, inter alia, to recall and vacate a decision and order on motion of this court dated January 26, 2009, which dismissed an appeal from an order of the Supreme Court, Richmond County, dated November 24, 2008, which was determined by a decision and order on motion dated March 25, 2009.

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

ORDERED that the motion is granted to the extent that reargument is granted and upon reargument the first paragraph of the decision and order on motion dated March 25, 2009, is amended by deleting therefrom the words "pursuant to 22 NYCRR 670.8(e) for failure to timely perfect the same" and substituting therefor the words "on the ground that no appeal lies from an order denying reargument," and the motion is otherwise denied.

FISHER, J.P., MILLER, LEVENTHAL and LOTT, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

May 27, 2009

VELEZ v RODRIGUEZ