

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

M87297
S/sl

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
THOMAS A. DICKERSON
CHERYL E. CHAMBERS, JJ.

2007-11394

DECISION & ORDER ON MOTION

Emp of Levy Shopping Center, LLC,
respondent, v Jean Marie Cham, appellant.

(Index No. 06-271)

The defendant, Jean Marie Cham, having appealed to this Court from an order of the Supreme Court, Rockland County, dated October 19, 2007, and having perfected the appeal on July 18, 2008, and the plaintiff having filed a respondent's brief on September 22, 2008, the matter was placed on this Court's calendar for March 30, 2009. By letter dated March 26, 2009, counsel for the plaintiff advised this Court that the appeal had been rendered academic by the entry of a final judgment in August 2008 in favor of the defendant, following trial, and the satisfaction thereof. By order to show cause dated April 20, 2009, the parties and their counsel were directed to show cause before this Court why an order should or should not be made and entered imposing such sanctions and/or costs, if any, against the parties to the appeal and/or their respective counsel pursuant to 22 NYCRR 670.2(g) as this Court may deem appropriate.

Upon the order to show cause and the papers filed in response thereto, it is

ORDERED that within 20 days after service of a copy of this decision and order on motion upon it, Daniel E. Bertolino, P.C., counsel for the appellant, shall pay a sanction in the sum of \$750 to the Lawyers' Fund for Client Protection of the State of New York (*see* 22 NYCRR 130-1.1[b]; 130-1.3); and it is further,

ORDERED that within 20 days after service of a copy of this decision and order on motion upon her, Desiree Weisz-Eptstein, counsel for the respondent, shall pay a sanction in the sum of \$750 to the Lawyers' Fund for Client Protection of the State of New York (*see* 22 NYCRR 130-1.1[b]; 130-1.3); and it is further,

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ORDERED that the Clerk of the Supreme Court, Rockland County, shall enter judgment accordingly (*see* 22 NYCRR 130-1.2); and it is further,


ORDERED that the Clerk of this court, or his designee, shall serve a copy of this decision and order on motion upon counsel for the parties by regular mail.

Section 670.2(g) of the rules of this Court provides, in relevant part, that “[i]f a cause or the underlying action or proceeding is wholly or partially settled or if any issues are wholly or partially rendered moot, or if any cause should not be calendared * * * for some other reason, the parties or their counsel shall immediately notify the court,” and “[a]ny attorney or party who, without good cause shown, fails to comply with the requirements of this subdivision shall be subject to the imposition of such costs and/or sanctions as the court may direct” (22 NYCRR 670.2[g]).

Under the circumstances, the failure of counsel for the parties to promptly advise this court that the appeal had been rendered academic warrants imposition of sanctions in the amounts indicated.

RIVERA, J.P., COVELLO, DICKERSON and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court