

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

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E/sl

ROBERT A. SPOLZINO, J.P.
DANIEL D. ANGIOLILLO
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2007-10994

DECISION & ORDER ON MOTION

Margaret O’Kane as executrix of the
estate of John Schick, respondent,
v Metropolitan Suburban Bus Authority,
et al., appellants.

(Index No. 2125/06)

Motion by the appellants to stay the trial on the issue of damages in the above-entitled action pending hearing and determination of an appeal from an order of the Supreme Court, Nassau County, entered November 8, 2007.

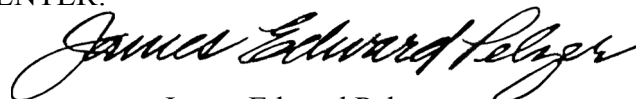
Upon the papers filed in support of the motion and the papers filed in opposition and in relation thereto, it is

ORDERED that on the court’s own motion, the appeal is dismissed, without costs or disbursements, on the ground that the death of John Schick before the issuance of the order, without the appointment of a personal representative, rendered the order a nullity (*see* CPLR 1015, 1021; *Gonzalez v Ford Motor Co.*, 295 AD2d 474, 475), without prejudice to the parties moving for summary judgment under the amended caption and taking an appeal from an order determining those motions; and it is further,

ORDERED that the motion to stay the trial on the issue of damages is denied as academic.

SPOLZINO, J.P., ANGIOLILLO, CHAMBERS and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 8, 2009

O’KANE v METROPOLITAN SUBURBAN BUS AUTHORITY