

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.

2009-03268

DECISION & ORDER ON MOTION

Chaim Grosinger, respondent,
v Tzirel Schoenwald, appellant.

(Index No. 06-5608)

Motion by the appellant to stay the inquest on the issue of damages pending hearing and determination of an appeal from an order of the Supreme Court, Rockland County, March 2, 2009.


Upon the papers filed in support of the motion and no papers having been filed in opposition or in relation thereto, it is

ORDERED that on the court's own motion, the appeal is dismissed, without costs or disbursements, as no appeal lies from an order entered upon the default of the appealing party (*see Marino v Termini*, 4 AD3d 342); and it is further,

ORDERED that the motion is denied as academic.

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

ENTER:


James Edward Pelzer
Clerk of the Court

June 8, 2009

GROSINGER v SCHOENWALD