

**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.

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2009-04209

DECISION & ORDER ON MOTION

Universal Underwriters Insurance Company,  
etc., respondent, v Anthony D. Filardi, appellant,  
et al., defendant.

(Index No. 06-386)

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Motion by the respondent to dismiss an appeal from an order of the Supreme Court, Westchester County, dated February 18, 2009, as untimely taken, and for an award of an attorney's fee, costs, and disbursements. Application by the appellant pursuant to CPLR 5520(a) to deem the notice of appeal, which was timely served, to be timely filed.

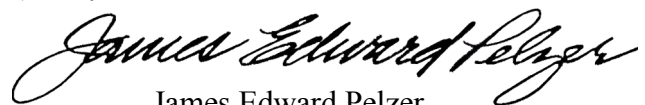
Upon the papers filed in support of the motion and the papers filed in opposition thereto, and upon the application, it is

ORDERED that the application is granted, and the notice of appeal, which was timely served, is deemed to be timely filed (*see* CPLR 5520[c]); and it is further,

ORDERED that the motion is denied.

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

ENTER:



James Edward Pelzer  
Clerk of the Court

June 19, 2009

UNIVERSAL UNDERWRITERS INSURANCE COMPANY v FILARDI