

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

M87941  
E/sl

ROBERT A. SPOLZINO, J.P.  
ANITA R. FLORIO  
HOWARD MILLER  
RANDALL T. ENG, JJ.

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2008-11511, 2009-03614

DECISION & ORDER ON MOTION

Sara Kaplan, plaintiff-respondent,  
v Great Neck Donuts, Inc., appellant,  
Sui Ying Wat, etc., defendant-respondent.  
(Appeal No. 1)

Sara Kaplan, respondent,  
v Great Neck Donuts, Inc., et al., appellants.  
(Appeal No. 2)

(Index No. 11897/04)

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Motion by Sui Ying Wat to consolidate an appeal from an order of the Supreme Court, Nassau County, dated November 25, 2008, with appeals from a purported judgment of the same court dated March 25, 2009. Application by Sara Kaplan pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to serve and file a brief in connection with the appeal from the order dated November 25, 2008.

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

ORDERED that on the court's own motion, the appeals from the purported judgment dated March 25, 2009 (Appellate Division Docket No. 2009-03614), are dismissed, without costs or disbursements, on the ground that the purported judgment does not decide "the rights of the parties" to the action (*see* CPLR 5011; *Zack v Zack*, 183 AD2d 382); accordingly, the purported judgment is a nullity and its entry merely an attempt by Sui Ying Wat to avoid the time limitation of CPLR 5513 (*see Shields v New York Oil Burner Co.*, 288 NY 22); and it is further,

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ORDERED that the motion is denied as academic; and it is further,

ORDERED that the application is granted, Sara Kaplan's time to serve and file a brief in connection with the appeal from the order dated November 25, 2008 (Appellate Division Docket No. 2008-11511), is enlarged until July 13, 2009, and Sara Kaplan's brief must be served and filed on or before that date.

SPOLZINO, J.P., FLORIO, MILLER and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court