

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

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E/cb

ANITA R. FLORIO, J.P.
HOWARD MILLER
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2009-03257, 2009-00156

DECISION & ORDER ON MOTION

Stepahnie Le, respondent
v Kevin Le, appellant-respondent;
Abel & Brustein-Kampel, P.C., nonparty-
appellant.
(Appeal No. 1)

Stepahnie Le, respondent
v Kevin Le, appellant.
(Appeal No. 2)

(Index No. 2369/07)

Motion by Abel & Brustein-Kampel, P.C., and Lynn J. Brustein-Kampel, on appeals from a judgment of the Supreme Court, IDV Part, Rockland County, entered February 25, 2009, and an appeal from a decision of the same court dated November 10, 2008, to stay the distribution of the proceeds of the sale of the marital residence, pending hearing and determination of the appeals from the judgment. Separate motion by Kevin Le for leave to prosecute his appeals as a poor person and for the assignment of counsel.

Upon the papers filed in support of the motions, the papers filed in opposition to the motion of Abel & Brustein-Kampel, P.C., and Lynn J. Brustein-Kampel, and the papers filed in relation to the motion of Kevin Le, it is

ORDERED that on the court's own motion, the appeal from the decision dated November 10, 2008 (Appellate Division Docket No. 2009-00156), is dismissed without costs or disbursements on the ground that no appeal lies from a decision (*Schicchi v Green Constr. Corp.*, 100 AD2d 509); and it is further,

July 2, 2009

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ORDERED that the motion of Abel & Brustein-Kampel, P.C., and Lynn J. Brustein-Kampel is granted to the extent that the distribution of the sum of \$50,000 from the net proceeds of the sale of the marital residence is stayed pending hearing and determination of the appeals from the judgment dated February 25, 2009 (Appellate Division Docket No. 2009-03257), on condition that Abel & Brustein-Kampel, P.C., and Lynn J. Brustein-Kampel perfect their appeal on or before July 31, 2009, and the motion is otherwise denied; and it is further,

ORDERED that in the event the appeal of Abel & Brustein-Kampel, P.C., and Lynn J. Brustein-Kampel is not perfected on or before July 31, 2009, the court, on its own motion, may vacate the stay, or the parties may move to vacate the stay, on three days notice; and it is further,

ORDERED that the branch of the motion of Kevin Le which is for leave to prosecute his appeal from the decision as a poor person and for the assignment of counsel with respect to that appeal is denied as academic; and it is further,

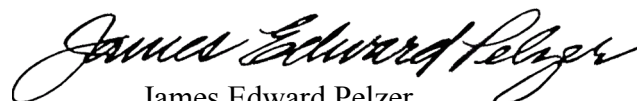
ORDERED that the branch of the motion of Kevin Le which is for leave to prosecute his appeal from the judgment on the original papers is granted, and the appeals from the judgment will be heard on the original papers (including a certified transcript of the proceedings, if any) and on the parties briefs; the parties are directed to file nine copies of their respective briefs and to serve one copy on each other; and it is further,

ORDERED that the branch of the motion of Kevin Le which is for leave to waive the filing fee with respect to the appeal from the judgment, for free transcripts, and for the assignment of counsel with respect to that appeal is denied; and it is further,

ORDERED that Kevin Le's time to serve and file a brief in connection with the appeal from the judgment is enlarged until August 31, 2009, and Kevin Le's brief shall be served and filed on or before that date.

FLORIO, J.P., MILLER, LEVENTHAL and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court