

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

M89174
E/sl

STEVEN W. FISHER, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2008-03440

DECISION & ORDER ON MOTION

Gerry W. Hart, respondent, v Maria Caruso,
etc., appellant, et al., defendants.

(Index No. 12792-01)

Motion by the respondent on an appeal from an order of the Supreme Court, Suffolk County, entered March 26, 2008, to strike the appellant's appendix on the ground that it is inadequate and to direct the appellant to file a replacement appendix, to strike Point II of the appellant's brief on the ground that the issues it raises are not properly before the court, and to enlarge the time to serve and file a brief.

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

ORDERED that the branch of the motion which is to strike the appellant's appendix on the ground that it is inadequate and to direct the appellant to file a replacement appendix is granted to the extent that on or before August 10, 2009, the appellant is directed to file with the Clerk of this court a copy of the settled transcript of the hearing before the referee; and it is further,

ORDERED that the branch of the motion which is to strike Point II of the appellant's brief is granted and on or before August 10, 2009, the appellant shall remove that point from the copies of the appellant's brief filed with the Clerk of the court or serve and file a replacement brief that does not contain the issue raised in Point II; and it is further,

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ORDERED that the branch of the motion which is to enlarge the time to serve and file a brief is granted, the respondent's time to serve and file a brief is enlarged until September 9, 2009, and the respondent's brief must be served and filed on or before that date.

FISHER, J.P., DICKERSON, BELEN and CHAMBERS, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court