

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

M89370
S/sl

MARK C. DILLON, J.P.
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2008-05493, 2009-00258

ORDER ON TO SHOW CAUSE

Irina Doubrovinskaya, respondent,
v Naftaliz Dembitzer, appellant.

(Index No. 3298/06)

Appeals by the defendant from (1) an order of the Supreme Court, Kings County, dated May 28, 2008, and (2) a judgment of the same court entered December 5, 2008.

Now, on the court's own motion, it is


ORDERED that the appeal from the judgment (Appellate Division Docket No. 2009-00258) is dismissed, without costs or disbursements, as the defendant is not aggrieved by a judgment entered upon the stipulation of the parties (*see* CPLR 5511); and it is further,

ORDERED that the parties show cause before this court why the appeal from the order (Appellate Division Docket No. 2008-05493) should or should not be dismissed on the ground that it has been rendered academic by the judgment entered December 5, 2008, and the right of direct appeal from the order terminated with entry of the judgment (*see Matter of Aho*, 39 NY2d 241, 248), by filing an affidavit or affirmation on that issue with the Clerk of this court on or before August 14, 2009; and it is further,

ORDERED that the Clerk of this court, or his designee, is directed to serve a copy of this order to show cause on the parties or their attorneys by regular mail.

DILLON, J.P., ANGIOLILLO, DICKERSON and ENG, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

July 14, 2009

DOUBROVINSKAYA v DEMBITZER