

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

M89401
J/sl

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
ANITA R. FLORIO
PLUMMER E. LOTT, JJ.

2008-05946

DECISION & ORDER ON MOTION

In the Matter of Raphael Grossman, et al.,
petitioners, v Yaakov Aaron Ilowitz, et al.,
respondents.
(Proceeding No. 1)

(Index No. 6268/06)

In the Matter Yaakov Aaron Ilowitz, et al.,
petitioners-respondents, v Raphael Grossman,
et al., appellants.
(Proceeding No. 2)

(Index No. 19552/07)

Motion by Yaakov Aaron Ilowitz and Yisroel Chaim Ilowitz to dismiss an appeal from an order of the Supreme Court, Kings County, dated May 22, 2008, on the ground that the record on appeal is inadequate or to direct the appellants to serve and file a supplemental record and to enlarge the time to serve and file a brief. By decision and order on motion dated June 17, 2009, the matter was remitted to the Supreme Court, Kings County, to report on whether the affirmation of Rabbi Mordechai Jofen, dated January 8, 2008, was reviewed in connection with the motion that resulted in the order dated May 22, 2008, and the motion by Yaakov Aaron Ilowitz and Yisroel Chaim Ilowitz was held in abeyance in the interim. The Supreme Court, Kings County, has filed its report.

September 3, 2009

MATTER OF GROSSMAN v ILOWITZ

Page 1.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, and upon the report of the Supreme Court, Kings County, it is

ORDERED that the branch of the motion which is to dismiss the appeal is denied on condition that on or before September 24, 2009, the appellants (1) replace pages 22 and 24 contained in the copies of the record on file with the Clerk of this court with the proper pages attached to the petition in the proceeding pending under Index No. 6268/06 (2) replace the following pages contained in the copies of the record with pages that do not contain handwritten notations: 529, 532, 533, 548 through 552, 554 through 556, 558, 617, 618, 620 through 623, 625 through 627, 630, 631, 634, 636, and 708, and (3) serve and file a supplemental record containing the following material:

- (1) affirmation of Israel Vider, dated November 7, 2006, and annexed exhibits;
- (2) order to show cause, dated June 1, 2007, verified petition dated May 30, 2007, affirmation of Israel Vider dated May 30, 2007, and annexed exhibits;
- (3) supplemental affirmation of Israel Vider, dated September 4, 2007, and annexed exhibits;
- (4) exhibits B & C to reply affirmation of Israel Vider, dated November 22, 2006;
- (5) affirmation of Rabbi Mordechai Jofen dated January 8, 2008;
- (6) letter from Israel Vider to Jessica Mara Sokol, dated July 16, 2007, and letter from Israel Vider to Justice Bert A. Bunyan, dated August 14, 2007, and annexed exhibits;
- (7) affidavit of Yisroael A. Simon dated October 18, 2006; and it is further,

ORDERED the branch of the motion which is to enlarge the time to serve and file a brief is granted and the respondents' brief shall be served and filed on or before October 29, 2009; and it is further,

ORDERED that the motion is otherwise denied.

SPOLZINO, J.P., SANTUCCI, FLORIO and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court