

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

M89481
S/sl

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
ANITA R. FLORIO
CHERYL E. CHAMBERS, JJ.

2008-08896

DECISION & ORDER ON MOTION

Jose R. San Martin, etc., et al., respondents,
v Minako S. Wong, appellant.

(Index No. 17167/06)

Motion by the appellant pro se on an appeal from a judgment of the Supreme Court, Queens County, entered August 18, 2008, to waive the requirements of 22 NYCRR 670.10.2(f) regarding certification of the replacement record on appeal. Cross motion by the respondents to strike the replacement record and brief filed by the appellant on the ground that they contain and refer to matters de hors the record, to sanction the appellant for frivolous conduct, and for costs and an attorney's fee. Separate motion by the appellant to stay enforcement of the judgment entered August 18, 2008. Separate cross motion by the respondents to enjoin the appellant from making further motions in connection with this appeal without leave of court, to sanction the appellant for frivolous conduct, and for costs and an attorney's fee.

Upon the papers filed in support of the motions and the cross motions and the papers filed in relation thereto, it is

ORDERED that the branch of the first cross motion which is to strike the appellant's replacement record and brief is granted to the extent that pages 833 through 910 of the replacement record and the appellant's brief are stricken and on or before August 15, 2009, the appellant shall (1) remove pages 833 through 910 of the record on file with the Clerk of this court or file a replacement record which does not contain the above material and (2) file a replacement brief which does not refer to the above material, and that branch of the cross motion is otherwise denied; and it is further,

ORDERED that the motion by the appellant to waive the certification requirements

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of 22 NYCRR 670.10.2(f) regarding certification of the record on appeal is granted on condition that the appellant complies with the directives of this decision and order on motion; and it is further,

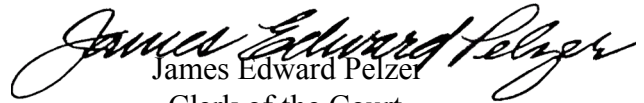
ORDERED that the motion to stay enforcement of the judgment is denied; and it is further,

ORDERED that the branch of the second cross motion which is to enjoin the appellant from making further motions in connection with this appeal without leave of court is denied; and it is further,

ORDERED that the branches of the cross motions which are to sanction the appellant for frivolous conduct, and for costs and an attorney's fee are held in abeyance and are referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

MASTRO, J.P., SKELOS, FLORIO and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court