

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

M89895  
E/sl

PETER B. SKELOS, J.P.  
JOHN M. LEVENTHAL  
L. PRISCILLA HALL  
LEONARD B. AUSTIN, JJ.

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2008-11078

DECISION & ORDER ON MOTION

In the Matter of Judy F. Phillips, appellant,  
v Beryl N. Johnson, et al., respondents.  
(Proceeding No. 1)

In the Matter of Longford Thomas, petitioner-  
respondent, v Beryl N. Johnson, respondent,  
Judy F. Phillips, appellant  
(Proceeding No. 2)

(Docket Nos. V-05687-07, V-4816-08)

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Motion by the appellant on an appeal from an order of the Family Court, Nassau County, dated November 12, 2008, for summary reversal, or, in the alternative, for a reconstruction hearing and to enlarge the time to perfect the appeal.

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

ORDERED that on the court's own motion, the notice of appeal from the final order of custody and visitation dated November 12, 2008, is deemed to be a premature notice of appeal from a corrected modified order of custody and visitation of the same court dated December 4, 2008 (*see* CPLR 5520[c]); and it is further,

ORDERED that the branch of the motion which is for a reconstruction hearing is granted, and the matter is referred to the Family Court, Nassau County, for a reconstruction hearing with respect to the minutes of the proceedings on May 5, 2008; and it is further,

July 27, 2009

MATTER OF PHILLIPS v JOHNSON

Page 1.

ORDERED that the stenographer(s) and/or the transcription service(s) is/are required promptly to make and certify two transcripts of the reconstruction hearing, once said hearing has been completed; in the case of stenographers, both transcripts shall be filed with the clerk of the Family Court, and the clerk of the Family Court shall furnish one of such certified transcripts to the appellant's counsel, without charge; in the case of transcription services, one transcript shall be filed with the clerk of the Family Court and one transcript shall be delivered to the appellant's counsel. The appellant's counsel is directed to provide copies of said transcripts to all of the other parties to the appeal, including the attorney for the child, if any, when counsel serves the appellant's brief upon those parties; and it is further,

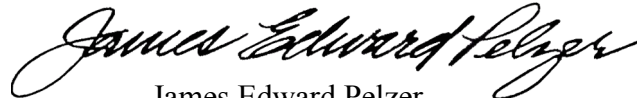
ORDERED that the appellant's counsel is directed to serve a copy of this decision and order on motion upon the Clerk of the court from which the appeal is taken; and it is further,

ORDERED that the branch of the motion which is to enlarge the time to perfect the appeal is granted to the extent that the time to perfect the appeal is enlarged, and the appellant shall advise this court expeditiously when the reconstruction hearing has been held; and it is further,

ORDERED that the motion is otherwise denied.

SKELOS, J.P., LEVENTHAL, HALL and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court