

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

M89919  
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FRED T. SANTUCCI, J.P.  
DANIEL D. ANGIOLILLO  
RUTH C. BALKIN  
CHERYL E. CHAMBERS, JJ.

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2009-02910, 2009-03744, 2009-03745

DECISION & ORDER ON MOTION

Carolyn Schenk, appellant,  
v Staten Island University Hospital, et al.,  
respondents, et al., defendant.

(Index No. 11938/01)

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Motion by the respondents to dismiss appeals from two orders of the Supreme Court, Richmond County, dated May 19, 2008, and February 24, 2009, respectively, and a judgment of the same court dated May 21, 2008.

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 dismiss the appeal from the order dated May 19, 2008 (Appellate Division Docket No. 2009-03744), is granted, and that appeal is dismissed, without costs or disbursements, on the ground that the appeal is duplicative of another appeal, which was also dismissed under Appellate Division Docket No. 2008-06187; and it is further,

ORDERED that the branch of the motion which is to dismiss the appeal from the judgment dated May 21, 2008 (Appellate Division Docket No. 2009-03745), is granted, and that appeal is dismissed, without costs or disbursements, as no appeal lies from a judgment entered upon the default of the appealing party (*see Marino v Termini*, 4 AD3d 342); and it is further,

August 5, 2009

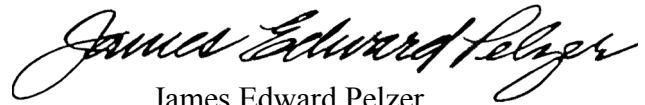
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ORDERED that the branch of the motion which is to dismiss the appeal from the order dated February 24, 2009 (Appellate Division Docket No. 2009-02910), is held in abeyance and referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

SANTUCCI, J.P., ANGIOLILLO, BALKIN and CHAMBERS, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court