

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

M90199
S/sl

REINALDO E. RIVERA, J.P.
HOWARD MILLER
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2009-00211

DECISION & ORDER ON MOTION
Motion to Dismiss Appeal

Charles A. Stewart, etc., appellant,
v Vassar Brothers Hospital, et al., respondents.

(Index No. 07-9730)

On the court's own motion, it is

ORDERED that its decision and order on motion dated February 27, 2009, in the above-entitled case, which referred a motion to dismiss the appeal to the panel of Justices hearing the appeal, is recalled and vacated, and the following decision and order on motion is substituted therefor:


Motion by the respondents to dismiss an appeal from an order of the Supreme Court, Orange County, dated November 14, 2008, on the ground that no appeal lies from an order denying reargument.

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

ORDERED that the motion is *denied as academic in light of the decision and order of this court dated July 31, 2009, entitled "In the Matter of the Dismissal of Causes for Failure to Perfect - July 2009 Calendar"*, which dismissed the above-entitled appeal for failure to perfect.

RIVERA, J.P., MILLER, BALKIN and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

August 3, 2009

STEWART v VASSAR BROTHERS HOSPITAL