

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

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E/sl

FRED T. SANTUCCI, J.P.
HOWARD MILLER
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2008-10413, 2009-02350, 2009-03108

DECISION & ORDER ON MOTION

Teresa Vogelgesang, respondent,
v Arthur Vogelgesang, appellant.

(Index No. 750/05)

Motion by the respondent on appeals from three orders of the Supreme Court, Queens County, dated September 15, 2008, January 27, 2009, and March 16, 2009, respectively, to dismiss the appeal from the order dated September 15, 2008, on the ground that the record on appeal is inadequate, and for an award of costs and an attorney's fee, or, to direct the appellant to file a supplemental record and to enlarge her time to serve and file a brief. Cross motion by the appellant for leave to perfect the appeal from the order dated September 15, 2008, without including certain exhibits in the record on appeal, for a preference in the calendaring of the appeal from the order dated September 15, 2008, for a preference in the calendaring of the appeals from the orders dated January 27, 2009, and March 16, 2009, respectively, to calendar all three appeals together, and for an award of costs and an attorney's fee and to impose a sanction upon the respondent.

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

ORDERED that the branch of the motion which is to enlarge the respondent's time to serve and file a brief with respect to the appeal from the order dated September 15, 2008 (Appellate Division Docket No. 2008-10413), is granted, the respondent's time to serve and file a brief is enlarged until September 23, 2009, and the respondent's brief must be served and filed on or before that date; and it is further,

ORDERED that the motion is otherwise denied; and it is further,

August 24, 2009

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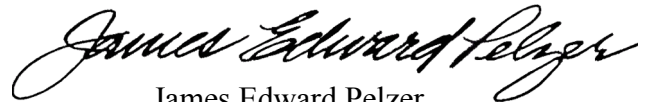
ORDERED that the branch of the cross motion which is for leave to perfect the appeal from the order dated September 15, 2008, without including certain exhibits in the record on appeal is granted to the extent that the record on appeal is deemed to be an appendix; and it is further,

ORDERED that the branch of the cross motion which is to calendar all three appeals together is granted and the appeals will be argued or submitted on the same day; and it is further,

ORDERED that the cross motion is otherwise denied.

SANTUCCI, J.P., MILLER, BALKIN and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large initial "J" and "P".

James Edward Pelzer
Clerk of the Court