

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

M91433
E/sl

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2008-07467, 2009-08130

DECISION & ORDER ON MOTION

Amit Klein, appellant, v Education Loan
Servicing, LLC, et al., respondents.

(Index No. 021496/07)

Motion by the appellant pro se on appeals from two orders of the Supreme Court, Nassau County, entered July 3, 2008, and December 24, 2008, respectively, to waive the requirements of 22 NYCRR 670.10.2(f) regarding certification of the record on appeal. Separate motion by the appellant pro se, in effect, to review the order dated December 24, 2008. Cross motion by the respondents to strike the record on appeal as inadequate and to enlarge their time to serve and file a brief.

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

ORDERED that on the court's own motion, the record on appeal is deemed to be an appendix, and the Clerk of this court, or his designee, shall subpoena the original papers constituting the court file from the Supreme Court, Nassau County; and it is further,

ORDERED that the motion to waive the certification requirements of 22 NYCRR 670.10.2(f) regarding is granted on condition that on or before September 29, 2009, the appellant serve and file a supplemental appendix containing the affirmation of Andrew Baron dated February 11, 2008, and any exhibits annexed to that affirmation that are necessary to permit the court to consider the issues raised by the parties on the appeals (*see* 22 NYCRR 670.10.2[c][1]); and it is

September 1, 2009

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further,

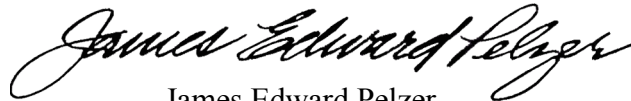
ORDERED that the motion, in effect, to review the order dated December 24, 2008, is denied with respect to the portion of the order that denied reargument (*see* CPLR 5513[a]) and denied as unnecessary with respect to the portion of the order that denied renewal as pursuant to CPLR 5517(b) the appeal from the order dated July 1, 2008, brings up for review so much of the order dated December 24, 2008, as denied renewal; and it is further,

ORDERED that the branch of the cross motion which is to strike the record on appeal is denied on condition that the appellant serves and files the supplemental appendix as set forth above; and it is further,

ORDERED that the branch of the cross motion which is to enlarge the respondents' time to serve and file a brief is granted, the respondents' time to serve and file a brief is enlarged until October 29, 2009, and the respondents' brief must be served and filed on or before that date.

SPOLZINO, J.P., SANTUCCI, ENG and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court