

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

M91528
E/sl

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

2008-10845

DECISION & ORDER ON MOTION

Manfred Epstein, respondent,
v Joan A. Messner, appellant.

(Index No. 21666-04)

Motion by the appellant to recall and vacate so much of a decision and order on motion of this court, entitled "In the Matter of the Dismissal of Causes for Failure to Perfect - July 2009 Calendar," dated July 31, 2009, as dismissed an appeal from a judgment of the Supreme Court, Suffolk County, entered December 24, 2008, pursuant to 22 NYCRR 670.8(e) for failure to timely perfect the same, to reinstate the appeal, 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 the motion is granted; and it is further,

ORDERED that so much of the decision and order on motion of this court dated July 31, 2009, as dismissed the instant appeal, is recalled and vacated; and it is further,

ORDERED that the appellant's time to perfect the appeal is enlarged until October 2, 2009, and the record or appendix on appeal and the appellant's brief must be served and filed on or before that date; and it is further,

ORDERED that no further enlargement of time shall be granted.

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

ENTER:



James Edward Pelzer
Clerk of the Court

September 2, 2009

EPSTEIN v MESSNER