

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

M92470
E/sl

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
ANITA R. FLORIO
PLUMMER E. LOTT, JJ.

2008-11485

DECISION & ORDER ON APPLICATION

Janine Petracca, respondent,
v Eugene Petracca, appellant.

(Index No. 201099/08)


Motion by the appellant, in effect, to recall and vacate a decision and order on motion of this court dated June 15, 2009, which dismissed an appeal from an order of the Supreme Court, Nassau County, dated November 5, 2008, on the ground that no appeal lies as of right from an order which directs a hearing to aid in the determination of a motion (*see Bagdy v Progresso Foods Corp.*, 86 AD2d 589), to reinstate the appeal, for leave to appeal, to enlarge the time to perfect the appeal, and to stay all proceedings in the above-entitled action.

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

ORDERED that the motion is denied.

SPOLZINO, J.P., SANTUCCI, FLORIO and LOTT, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

September 28, 2009

PETRACCA v PETRACCA