

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

D20962  
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Submitted - October 15, 2008

STEVEN W. FISHER, J.P.  
ROBERT A. LIFSON  
JOSEPH COVELLO  
RUTH C. BALKIN, JJ.

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2007-07355

DECISION & ORDER

In the Matter of Meru C. Wei, appellant, v New York State Department of Motor Vehicles, respondent.

(Index No. 4463/07)

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Meru C. Wei, Whitestone, N.Y., appellant pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Michelle Aronowitz and Robert C. Weisz of counsel; Megan B. Miller on the brief), for respondent.

In a proceeding pursuant to CPLR article 78 to review a determination of the New York State Department of Motor Vehicles dated September 6, 2006, which denied the petitioner's application for the reinstatement of her driver's license, the petitioner appeals from an order and judgment (one paper) of the Supreme Court, Queens County (Dorsa, J.), entered April 30, 2007, which, inter alia, denied the petition and dismissed the proceeding.

ORDERED that the appeal is dismissed, without costs or disbursements.

An appeal as of right must be taken "within thirty days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry" (CPLR 5513[a]). "The time period for filing a notice of appeal is nonwaivable and jurisdictional" (*Jones Sledzik Garneau & Nardone, LLP v Schloss*, 37 AD3d 417, 417; see *Matter of Xander Corp. v Haberman*, 41 AD3d 489). Here, the New York State Department of Motor Vehicles served a copy of the order and judgment and written notice of its entry on May 4, 2007; however, the petitioner's

November 5, 2008

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notice of appeal was not filed until on or about July 26, 2007, more than 70 days after service of the order and judgment with notice of entry. Accordingly, the appeal must be dismissed as untimely taken.

FISHER, J.P., LIFSON, COVELLO and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court