

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

D24198
G/hu

_____AD3d_____

Argued - May 4, 2009

WILLIAM F. MASTRO, J.P.
MARK C. DILLON
FRED T. SANTUCCI
RUTH C. BALKIN, JJ.

2007-08750

DECISION & ORDER

Delores Johnson, etc., appellant, v Israel Jacobowitz,
etc., respondents, et al., defendant.

(Index No. 9431/03)

Wolf & Fuhrman, LLP, Bronx, N.Y. (Carole R. Moskowitz of counsel), for appellant.

Costello, Shea & Gaffney, LLP, New York, N.Y. (Steven E. Garry of counsel), for
respondents.

In an action to recover damages for medical malpractice, etc., the plaintiff appeals from stated portions of an order of the Supreme Court, Kings County (Levine, J.), dated June 22, 2007.

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

The appeal from the order must be dismissed because the right of direct appeal therefrom terminated with the entry of judgment in the action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on the appeal from the order are brought up for review and have been considered on the cross appeal from the judgment (*see CPLR 5501[a][1]; Johnson v Jacobowitz*, _____AD3d_____ [Appellate Division Docket No. 2008-08191; decided herewith]).

MASTRO, J.P., DILLON, SANTUCCI and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

August 18, 2009

JOHNSON v JACOBOWITZ