

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

D35147
W/kmb

____AD3d____

Argued - April 16, 2012

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
RANDALL T. ENG
LEONARD B. AUSTIN, JJ.

2010-00792
2010-00846

DECISION & ORDER

In the Matter of Oleg Cassini, deceased.
Christina Cassini, respondent;
Marianne Nestor Cassini, appellant.

(File No. 343100)

Sedgwick LLP, New York, N.Y. (Charles H. Kaplan and J. Gregory Lahr of counsel),
for appellant.

Orrick, Herrington & Sutcliffe LLP, New York, N.Y. (Karen G. Johnson-McKewan,
San Francisco, California, pro hac vice, E. Joshua Rosenkranz, and Agnès Dunogué
of counsel), and Busell & Stier, PLLC, Great Neck, N.Y. (Eileen D. Stier of counsel),
for respondent (one brief filed).

In a probate proceeding in which Christina Cassini petitioned pursuant to SCPA 1809
to determine the validity of a claim against the estate of the decedent, Oleg Cassini, Marianne Nestor
Cassini, the executor of the decedent's estate, appeals from (1) a decision of the Surrogate's Court,
Nassau County (Riordan, S.), dated September 18, 2009, and (2) an order of the same court dated
December 4, 2009, which, upon the decision, denied her converted motion for summary judgment
dismissing the amended petition and granted the petitioner's cross motion for summary judgment
on the amended petition.

ORDERED that the appeal from the decision is dismissed, without costs or
disbursements, as no appeal lies from a decision (*see Schicchi v J.A. Green Constr. Corp.*, 100 AD2d
509); and it is further,

ORDERED that the appeal from the order is dismissed, without costs or

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MATTER OF CASSINI, DECEASED

disbursements, as that order was superseded by an order of the same court (McCarty III, S.), dated February 18, 2011, made upon renewal and reargument (*see Matter of Cassini*, ____AD3d____, Appellate Division Docket No. 2011-3117, decided herewith).

SKELOS, J.P., DICKERSON, ENG and AUSTIN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court