

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

M244141
E/sl

RUTH C. BALKIN, J.P.
JOHN M. LEVENTHAL
SYLVIA O. HINDS-RADIX
JOSEPH J. MALTESE, JJ.

2016-02434

DECISION & ORDER ON MOTION

Catherine Marchello, etc., respondent,
v Perfect Little Productions, Inc.,
et al., appellants.

(Index No. 5057/06)

Application by the appellants on an appeal from an order of the Supreme Court, Nassau County, entered February 4, 2016, in effect, to substitute Stephen Craig Young, as personal representative of the estate of Valeria Valente Young, for the deceased appellant Valeria Valente Young, sued herein as Mrs. Steve Young, also known as Valerie Valente, to amend the caption accordingly, and to enlarge the time to perfect the appeal. The appellant Valeria Valente Young, sued herein as Mrs. Steve Young, also known as Valerie Valente, died on August 17, 2015. By order to show cause dated October 20, 2017, the branches of the application which were for substitution and to amend the caption were granted, the parties were directed to show cause before this Court why an order should or should not be made and entered (1) dismissing the appeal on the grounds that the notice of appeal was filed in violation of the statutory stay of proceedings which arose upon the death of Valeria Valente Young, sued herein as Mrs. Steve Young, also known as Valerie Valente, and (2) vacating the order entered February 4, 2016, as a nullity, and the branch of the application which was to enlarge the appellants' time to perfect the appeal was held in abeyance in the interim.

Now, upon the order to show cause and no papers having been filed in response thereto, and upon the papers filed in support of the application and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the motion to dismiss the appeal and vacate the order is granted, and the appeal is dismissed, without costs or disbursements (*see* CPLR 1015[a]; *JP Morgan Chase Bank, N.A. v Rosemberg*, 90 AD3d 713) and the order entered February 4, 2016, is vacated as a nullity (*see* CPLR 1015; *Matter of Einstoss*, 26 NY2d 181); and it is further,

January 22, 2018

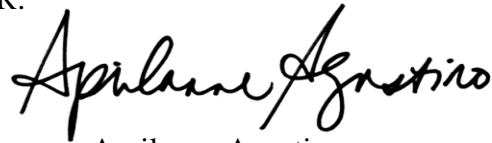
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ORDERED that the branch of the application which is to enlarge the appellants' time to perfect the appeal is denied as academic.

BALKIN, J.P., LEVENTHAL, HINDS-RADIX and MALTESE, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court