

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

M245939
E/afa

ALAN D. SCHEINKMAN, P.J.
WILLIAM F. MASTRO
REINALDO E. RIVERA
MARK C. DILLON
RUTH C. BALKIN, JJ.

2017-07697

DECISION & ORDER ON MOTION

Wilmington Trust Company, etc., appellant,
v Edward Gewirtz, etc., respondent, et al.,
defendants.

(Index No. 507931/14)

On the Court's own motion, it is

ORDERED that the decision and order on motion of this Court dated February 5, 2018, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Application by the appellant pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to perfect an appeal from a decision of the Supreme Court, Kings County, dated June 9, 2017.

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 on the Court's own motion, the appeal is dismissed, without costs or disbursements, on the ground that no appeal lies from a decision (*see Schicchi v J.A. Green Constr. Co.*, 100 AD2d 509); and it is further,

ORDERED that the application is denied as academic.

SCHEINKMAN, P.J., MASTRO, RIVERA, DILLON and BALKIN, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

February 7, 2018

WILMINGTON TRUST COMPANY v GEWIRTZ