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FOR IMMEDIATE RELEASE

APPELLATE COURT THROWS OUT APPEAL

New York, New York (Wednesday, September 27, 2006): Last week a New York appellate court, in an extraordinary move, rather than deny an appeal, literally threw the case out in its entirety.

The case, *The Estate of Byrdie Goldman v. Donald Goldman, et al.*, was a fraudulent conveyance action that went to trial before the Honorable Barbara Kapnick, Justice of the Supreme Court of the State of New York. Justice Kapnick set aside transfers of over \$1 million dollars, froze the bank account and awarded the Estate attorney's fees. On appeal, the Estate both opposed the appeal and moved to dismiss the action because Defendants failed to move to stay the trial court's decision. The First Department, in a one sentence decision, granted the Estate's motion, throwing out the appeal.

Mr. Roth, counsel for the Estate, stated that this court made it very clear that it will not tolerate litigants who sit on their rights and do nothing during the pendency of an appeal. He added that such a decision was very rare: "rather than simply deny the appeal, before it was even argued, the court just told the Defendant to go home. That's about as strong a message an appellate court can provide." Mr. Roth concluded: "hopefully this time they will heed the message and go away."

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The Roth Law Firm, PLLC, handles litigation of securities, commercial and entertainment matters.
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