

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: February 26, 2026

CV-25-0209

In the Matter of DISTRICT
ATTORNEY OF COLUMBIA
COUNTY, on Behalf of
LUCKY ORPHANS HORSE
RESCUE INC.,
Respondent,
v

MEMORANDUM AND ORDER

ANDREA NUSSINOW,
Appellant.

Calendar Date: January 12, 2026

Before: Garry, P.J., Clark, Pritzker, Powers and Corcoran, JJ.

Joshua D. Haar, West Edmeston, for appellant.

Christopher Liberati-Conant, District Attorney, Hudson (*Brett Michael Fuller* of counsel), for respondent.

Pritzker, J.

Appeals (1) from an order of the Town Court of Germantown, Columbia County (Wendy Nack-Lawlor, J.), dated September 18, 2024, which, in a proceeding pursuant to Agriculture and Markets Law § 373, required respondent to post security and, (2) from an order of said court, entered October 18, 2024, which granted petitioner's application for forfeiture of seized animals.

Lucky Orphans Horse Rescue Inc. is a nonprofit horse sanctuary and an impounding organization as defined by the Agriculture and Markets Law (*see* Agriculture and Markets Law § 373 [6]). In July 2024, the State Police executed a search warrant on respondent's property, resulting in the seizure of 13 horses based upon allegations that respondent failed to provide proper sustenance in violation of Agriculture and Markets Law § 353. Respondent was arrested and charged with 13 counts of violating Agriculture and Markets Law § 353, and the seized horses were placed in Lucky Orphans' care and custody.

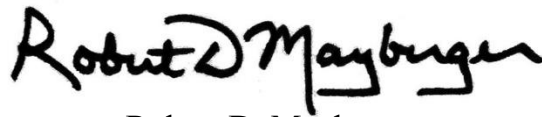
Petitioner, on behalf of Lucky Orphans, filed a petition requiring respondent to post security, pursuant to Agriculture and Markets Law § 373 (6), for the costs incurred for housing and caring for the horses for 30 days. Following a bond hearing, Town Court orally ordered respondent to post a cash security bond in the requested amount within five days. Respondent immediately requested a stay pending appeal, which the court denied. Thereafter, respondent, by letter motion in County Court, requested a stay of Town Court's order pending appeal. County Court (Herman, J.), denied the request without addressing the merits and directed respondent to article 17 of the Uniform Justice Court Act and CPLR articles 55 and 78 for the proper procedure to appeal Town Court's order. Subsequently, after respondent failed to post the security bond within five days, Town Court issued a written order forfeiting respondent's "right, title, and interest" in the horses and vested ownership in the horses to Lucky Orphans (*see* Agriculture and Markets Law § 373 [6] [b] [2]). Respondent appeals from Town Court's oral and written orders.

Respondent's appeals must be dismissed because Town Court's orders are not appealable to this Court (*see* UJCA 1701). Rather, the proper procedure would be for respondent to appeal those orders to County Court (*compare Matter of Park Realty Corp. v Hydrania Inc.*, 17 AD3d 898, 899 [3d Dept 2005], and *Matter of Kern v Guller*, 40 AD3d 1231, 1232 [3d Dept 2007], with *Viscusi v Albany County Dental Assoc.*, 226 AD3d 1124, 1125 [3d Dept 2024]).

Garry, P.J., Clark, Powers and Corcoran, JJ., concur.

ORDERED that the appeals are dismissed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, stylized 'R' and 'M'.

Robert D. Mayberger
Clerk of the Court