

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

M226814
E/sl/ct

MARK C. DILLON, J.P.
RUTH C. BALKIN
SANDRA L. SGROI
VALERIE BRATHWAITE NELSON, JJ.

2016-00202

DECISION & ORDER ON MOTION

Deborah Kopald, plaintiff,
v Rite Aid Headquarters Corp.,
et al., defendants.

(Index No. 7886/14)

2016-07815, 2017-01896

Deborah Kopald, plaintiff-respondent,
v Rite Aid Headquarters Corp., et al.,
defendants-respondents, CCA Industries, Inc.,
appellant.

(Index No. 7886/14)

Motion by CCA Industries, Inc., to recall and vacate a decision and order on motion of this Court dated August 23, 2016, which dismissed a purported appeal under Appellate Division Docket No. 2016-00202, on the ground that the notice of appeal was defective because it did not designate the party taking the appeal, the order appealed from, or the court to which the appeal was taken, to consolidate that appeal with an appeal from an order of the Supreme Court, Orange County, dated June 14, 2016, and to enlarge the time to perfect the appeals. Separate motion by Deborah Kopald to dismiss the appeal from the order dated June 14, 2016, under Appellate Division Docket No. 2016-07815, inter alia, on the ground that no appeal lies from an order denying reargument. Separate motion by Deborah Kopald to dismiss an appeal from an order of the same court dated November 18, 2015, under Appellate Division Docket No. 2017-01896, on the ground that it was untimely taken. Application by CCA Industries, Inc., pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to perfect the appeal from the order dated June 14, 2016.

March 10, 2017

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Upon the papers filed in support of the motions and the papers filed in opposition 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 branch of the motion by CCA Industries, Inc., which is to recall and vacate the decision and order on motion of this Court dated August 23, 2016, is denied; and it is further,

ORDERED that the branch of the motion by CCA Industries, Inc., which is to enlarge the time to perfect the appeal from the order dated June 14, 2016, under Appellate Division Docket No. 2016-07815, and the application for that relief, are granted, the time of CCA Industries, Inc., to perfect that appeal is enlarged until May 9, 2017, and the record or appendix and the brief of CCA Industries, Inc., must be served and filed on or before that date; and it is further,

ORDERED that the motion by CCA Industries, Inc., is otherwise denied as academic; and it is further,

ORDERED that the branch of the motion by Deborah Kopald which is to dismiss the appeal under Appellate Division Docket No. 2016-07815, on the ground that no appeal lies from an order denying reargument is held in abeyance and referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof; and it is further,

ORDERED that the motion by Deborah Kopald to dismiss the appeal under Appellate Division Docket No. 2016-07815, is otherwise denied; and it is further,

ORDERED that the motion by Deborah Kopald to dismiss the appeal from the order dated November 18, 2015, under Appellate Division Docket No. 2017-01896, as untimely taken, is granted and that appeal is dismissed, without costs or disbursements.

DILLON, J.P., BALKIN, SGROI and BRATHWAITE NELSON, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court