

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

D54779
T/htr

_____AD3d_____

Argued - November 14, 2017

LEONARD B. AUSTIN, J.P.
SHERI S. ROMAN
SANDRA L. SGROI
VALERIE BRATHWAITE NELSON, JJ.

2015-06674
2015-09760

DECISION & ORDER

JR Factors, Inc., appellant, v Astoria Equities, Inc.,
et al., respondents.

(Index No. 58519/11)

Thomas F. Farley, P.C., White Plains, NY, for appellant.

Adam E. Mikolay, P.C., East Meadow, NY, for respondents.

Appeals from an order of the Supreme Court, Westchester County (Mary H. Smith, J.), dated July 23, 2015, and an amended judgment of that court dated August 28, 2015. The order, insofar as appealed from, denied the plaintiff's motion pursuant to CPLR 4404(b) to set aside a decision of that court dated April 22, 2015, made after a nonjury trial. The amended judgment, upon the order and upon an amended decision of that court dated July 23, 2015, is in favor of the defendants and against the plaintiff dismissing the complaint and awarding the defendants damages on their counterclaim in the principal sum of \$63,000.

ORDERED that the appeals are dismissed, with one bill of costs.

It is the obligation of the appellant to assemble a proper record on appeal (*see Elgart v Berezovsky*, 123 AD3d 970, 971; *Green Tree Credit, LLC v Jelks*, 120 AD3d 1300; *Matter of George v Kings County Hosp. Ctr.*, 119 AD3d 569). Here, the record filed by the appellant does not contain the summons and complaint in this action. The record also does not contain the entire transcript of the trial. In particular, the record is missing a portion of the transcript of the testimony of one of the plaintiff's witnesses and the entire transcript of the testimony of a witness called by the defense. As the record is inadequate to enable this Court to render an informed decision on the merits of the appeals, the appeals must be dismissed (*see Elgart v Berezovsky*, 123 AD3d at 971;

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JR FACTORS, INC. v ASTORIA EQUITIES, INC.

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Green Tree Credit, LLC v Jelks, 120 AD3d at 1300; *Matter of George v Kings County Hosp. Ctr.*, 119 AD3d at 569).

AUSTIN, J.P., ROMAN, SGROI and BRATHWAITE NELSON, JJ., concur.

ENTER:

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

Aprilanne Agostino
Clerk of the Court