

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

D56595  
M/htr

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - March 29, 2018

WILLIAM F. MASTRO, J.P.  
SHERI S. ROMAN  
BETSY BARROS  
ANGELA G. IANNACCI, JJ.

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2017-09319

DECISION & ORDER

Roman Catholic Diocese of Brooklyn, New York,  
respondent, v Christ the King Regional High School,  
defendant; Christ the King Continuing Education, Inc.,  
proposed intervenor-appellant.

(Index No. 704996/13)

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Renfroe Driscoll & Foster, LLP, Forest Hills, NY (Patrick McGlashan and Patrick  
K. Foster of counsel), for proposed intervenor-appellant.

Cullen and Dykman LLP, New York, NY (Cynthia Boyer Okrent of counsel), for  
respondent.

In an action, inter alia, for a judgment declaring the parties' respective rights under an agreement dated August 31, 1976, the proposed intervenor Christ the King Continuing Education, Inc., appeals from an order of the Supreme Court, Queens County (Marguerite A. Grays, J.), entered September 6, 2017. The order denied that proposed intervenor's motion for leave to intervene in the action and to stay enforcement of an order of the same court entered March 22, 2017, pending determination of the defendant's appeal from that order.

ORDERED that the appeal from so much of the order entered September 6, 2017, as denied that branch of the motion of the proposed intervenor Christ the King Continuing Education, Inc., which was to stay enforcement of the order entered March 22, 2017, is dismissed as academic in light of this Court's decision and order on motion dated October 23, 2017, staying enforcement of the order entered March 22, 2017, pending hearing and determination of this appeal; and it is further,

September 19, 2018

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ORDERED that the order entered September 6, 2017, is reversed insofar as reviewed, on the facts and in the exercise of discretion, and that branch of the motion of the proposed intervenor Christ the King Continuing Education, Inc., which was for leave to intervene in the action is granted; and it is further,

ORDERED that one bill of costs is awarded to the appellant.

The Supreme Court improvidently exercised its discretion in denying that branch of the motion of the proposed intervenor Christ the King Continuing Education, Inc., which was for leave to intervene in the action for the reasons set forth in the related appeal (*see Roman Catholic Diocese of Brooklyn, N.Y. v Christ the King Regional High Sch.*, \_\_\_\_\_ AD3d \_\_\_\_\_ [Appellate Division Docket No. 2017-09317; decided herewith]).

MASTRO, J.P., ROMAN, BARROS and IANNACCI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court