

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

M244300  
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L. PRISCILLA HALL, J.P.  
SANDRA L. SGROI  
JEFFREY A. COHEN  
FRANCESCA E. CONNOLLY, JJ.

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2017-09653, 2017-09657

DECISION & ORDER ON MOTION

Daniel Cafferata, appellant,  
v Gerilyn Cafferata, respondent.

(Index No. 50583/13)

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On the Court's own motion, it is

ORDERED that the decision and order on motion of this Court dated January 2, 2018, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Appeals by Daniel Cafferata from an order of the Supreme Court, Richmond County, dated April 13, 2017, and a judgment of the same court dated July 26, 2017. By order to show cause dated November 17, 2017, the parties were directed to show cause before this Court why an order should or should not be made and entered dismissing the appeals in the above-entitled action for failure to comply with a scheduling order dated September 27, 2017, issued pursuant to § 670.4(a)(2) of the rules of this Court (22 NYCRR 670.4[a][2]).

Now, upon the order to show cause and the papers filed in response thereto, it is

ORDERED that the motion to dismiss the appeals is denied; and it is further,

ORDERED that pursuant to § 670.4(a) of the rules of this Court (22 NYCRR 670.4[a]), within 30 days after the date of this decision and order on motion, the appellant shall file in the office of the Clerk of this Court one of the following:

(1) an affidavit or affirmation stating that there are no minutes in the Supreme Court action to be transcribed for the appeals; or

January 4, 2018

CAFFERATA v CAFFERATA

Page 1.

(2) if there are such minutes, an affidavit or affirmation that the transcript has been received, and indicating the date that it was received; or

(3) if the transcript has not been received, an affidavit or affirmation stating that it has been ordered and paid for, the date thereof and the date by which the transcript is expected; or

(4) an affidavit or an affirmation withdrawing the appeals; and it is further,

ORDERED that if the appellant fails to file the affidavit or affirmation within 30 days after the date of this decision and order on motion, the Court will dismiss the appeals, without further notice.

HALL, J.P., SGROI, COHEN and CONNOLLY, 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