

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

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WILLIAM F. MASTRO, J.P.
JOHN M. LEVENTHAL
SANDRA L. SGROI
FRANCESCA E. CONNOLLY, JJ.

2017-03166

DECISION & ORDER ON MOTION

Alan Ballinger, et al., plaintiffs/counterclaim
defendants-appellants, v Stelle Architects, PLLC,
defendant/counterclaim plaintiff-respondent.

(Index No. 17642/06)

Motion by Stelle Architects, PLLC, to dismiss an appeal from an order of the Supreme Court, Suffolk County, dated January 3, 2017, for failure of the plaintiffs/counterclaim defendants-appellants to serve it with a copy of the record and on the ground that the record omits an affirmation in opposition of Daniel C. Ross, dated September 29, 2016. Separate motion by Stelle Architects, PLLC, to enlarge the time to serve and file a brief.

Upon the papers filed in support of the motion to dismiss the appeal and the papers filed in opposition thereto, and upon the papers filed in support of the motion to enlarge the time to serve and file a brief and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the matter is remitted to the Supreme Court, Suffolk County, to report on whether that court considered the affirmation in opposition of Daniel C. Ross, dated September 29, 2016, in connection with the motion which was determined by the order dated January 3, 2017; the Supreme Court, Suffolk County, shall file its report to this Court with all convenient speed; and it is further,

ORDERED that the motions are held in abeyance in the interim.

MASTRO, J.P., LEVENTHAL, SGROI and CONNOLLY, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

February 26, 2018

BALLINGER v STELLE ARCHITECTS, PLLC