

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

M246726
E/sl

MARK C. DILLON, J.P.
LEONARD B. AUSTIN
ROBERT J. MILLER
SYLVIA O. HINDS-RADIX, JJ.

2017-04888

DECISION & ORDER ON MOTION

Patricia Krupa, appellant, v Parker Jewish
Institute for Health and Rehabilitation,
et al., respondents.

(Index No. 5329/13)

Separate motions by the respondents to dismiss an appeal from an order of the Supreme Court, Queens County, dated March 8, 2017, on the grounds that the right of direct appeal therefrom terminated upon entry of a judgment of the same court entered October 24, 2017, in the above-entitled action, the record and the appellant's brief contain or refer to matter dehors the record, and the record is inadequate, or, in the alternative, to enlarge the time to serve and file their respective briefs. Cross motion by the appellant to deem the notice of appeal from the order to be a premature notice of appeal from the judgment.

Upon the papers filed in support of the motions and the cross motion, and the papers filed in opposition thereto, it is

ORDERED that the cross motion is granted to the extent that the notice of appeal from the order dated March 8, 2017, is deemed to be a premature notice of appeal from the judgment to the extent that the judgment brings the order up for review (*see* CPLR 5520[c]), and the cross motion is otherwise denied; and it is further,

ORDERED that the branches of the motions which are to dismiss the appeal on the grounds that the record and the appellant's brief contain or refer to matter dehors the record and the record is inadequate are denied on condition that on or before April 3, 2018, the appellant remove pages 98 and 99 from the copies of the record filed with the Clerk of this Court, serve and file a supplemental record containing the judgment entered October 24, 2017, and the affidavit of service of Maryann Tagliagambe dated November 10, 2016, and serve and file a replacement brief that does not refer to matter dehors the record; and it is further,

March 2, 2018

Page 1.

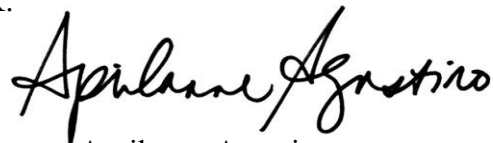
KRUPA v PARKER JEWISH INSTITUTE FOR HEALTH AND REHABILITATION

ORDERED that the branches of the motions which are to dismiss the appeal on the ground that the right of direct appeal from the order terminated upon entry of the judgment is denied; and it is further,

ORDERED that the branches of the motions which are to enlarge the respondents' time to serve and file their respective briefs is granted, the respondents' time to serve and file their respective briefs is enlarged until May 8, 2018, and the respondents' briefs shall be served and filed on or before that date.

DILLON, J.P., AUSTIN, MILLER and HINDS-RADIX, 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