

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

M246828
E/sl

ALAN D. SCHEINKMAN, P.J.
JEFFREY A. COHEN
COLLEEN D. DUFFY
ANGELA G. IANNACCI, JJ.

2017-06457

DECISION & ORDER ON MOTION

Jose Ortega, appellant, v The Roman Catholic
Diocese of Brooklyn, et al., respondents.

(Index No. 507160/13)

Motion by the respondents, inter alia, to enlarge the record to include a certain deposition transcript on an appeal from an order of the Supreme Court, Kings County, dated May 12, 2017. Separate motion by the respondents for the Court to take judicial notice of two documents. Separate motion by the appellant to strike stated portions of the respondents' brief on the ground that they refer to matter dehors the record and to enlarge the time to serve and file a reply brief. Application by the appellant pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to serve and file a reply brief.

Upon the papers filed in support of the respondents' motion, inter alia, to enlarge the record to include a certain deposition transcript, and no papers having been filed in opposition or in relation thereto, upon the papers filed in support of the respondents' motion for the Court to take judicial notice of two documents, and the papers filed in opposition thereto, upon the papers filed in support of the appellant's motion, and the papers filed in opposition thereto, and upon the papers filed in support of the application, and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the respondents' motions are denied; and it is further,

ORDERED that the appellant's motion and the application are granted; and it is further,

ORDERED that the following material is stricken from the respondents' brief: the second full paragraph on page 2, the paragraph beginning on the bottom of page 2 and ending on page 3, the counter statement of facts section B "Plaintiff's Contributory Negligence" on page 5, and Point III beginning on page 10 and ending on page 12, including footnote 5 on page 10, as well as the reference to Point III in the table of contents; and it is further,

March 1, 2018

Page 1.

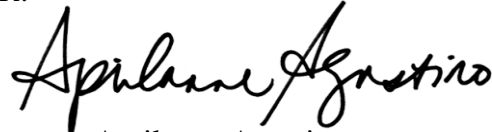
ORTEGA v THE ROMAN CATHOLIC DIOCESE OF BROOKLYN

ORDERED that on or before April 3, 2018, the respondents shall delete the stricken material from the copies of the respondents' brief filed with the Clerk of the Court or serve and file a replacement brief that does not contain the stricken material; and it is further,

ORDERED that the appellant's time to serve and file a reply brief is enlarged until April 17, 2018, and the reply brief shall be served and filed on or before that date.

SCHEINKMAN, P.J., COHEN, DUFFY and IANNACCI, 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