

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

M247491
E/rr

CHERYL E. CHAMBERS, J.P.
SHERI S. ROMAN
BETSY BARROS
LINDA CHRISTOPHER, JJ.

2016-12363

ORDER TO SHOW CAUSE

U.S. Bank National Association, etc., respondent,
v Joseph Singer, et al., appellants, et al., defendants.

(Index No. 501886/15)

Motion by the appellants an appeal from an order of the Supreme Court, Kings County, dated September 21, 2016, (1) to stay all proceedings in the above-entitled action pending hearing and determination of the appeal, (2) pursuant to CPLR 5520(c), to deem the notice of appeal from the order to be a premature notice of appeal from a judgment of the same court entered December 11, 2017, and (3) pursuant to CPLR 5517(b), for leave to serve and file a supplemental brief addressing the issues raised by an order of the same court dated March 20, 2017, which denied the appellants' motion, inter alia, for leave to renew the motion that resulted in the order dated September 21, 2016.

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

ORDERED that the branch of the motion which is to stay all proceedings is denied; and it is further,

ORDERED that the branch of the motion which is pursuant to CPLR 5520(c) to deem the notice of appeal from the order to be a premature notice of appeal from the judgment is denied as unnecessary as the appellant has taken an appeal from the judgment which is pending under Appellate Division Docket No. 2018-02247; and it is further,

ORDERED that on the Court's own motion, the parties are directed to show cause before this Court why an order should or should not be made and entered dismissing the appeal from the order dated September 21, 2016, on the ground that the right of direct appeal from the order terminated upon entry of the judgment entered December 11, 2017 (*see Matter of Aho*, 39 NY2d

March 28, 2018

U.S. BANK NATIONAL ASSOCIATION v SINGER

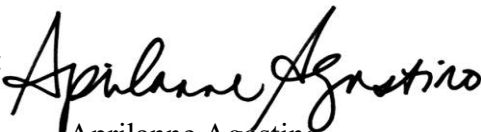
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241), by filing an affirmation or an affidavit on that issue in the office of the Clerk of this Court and serving one copy on each other on or before April 6, 2018, or, if the appellant be so advised, by making a motion, on or before April 6, 2018, to consolidate the appeal from the order with the appeal from the judgment; and it is further,

ORDERED that the branch of the motion which is pursuant to CPLR 5517(b) for leave to serve and file a supplemental brief addressing the issues raised by an order dated March 20, 2017, is held in abeyance in the interim; and it is further,

ORDERED that the Clerk of this Court or her designee is directed to serve a copy of this order to show cause upon the parties by regular mail.

CHAMBERS, J.P., ROMAN, BARROS and CHRISTOPHER, JJ., concur.

ENTER: 
Aprilanne Agostino
Clerk of the Court