

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

M247614
E/afa

ALAN D. SCHEINKMAN, P.J.
RUTH C. BALKIN
LEONARD B. AUSTIN
SYLVIA O. HINDS-RADIX, JJ.

2016-13181

DECISION & ORDER ON MOTION

Nella Manko, appellant, v David A.
Gabay, et al., respondents.

(Index No. 22148/13)

Motion by the appellant pro se on an appeal from an order of the Supreme Court, Kings County, dated October 7, 2016, to waive compliance with the requirements of 22 NYCRR 670.10.2(f) regarding certification of the appellant's appendix, for poor person relief, and to waive the motion filing fee. Motion by the respondents Aaronson Rappaport Feinstein & Deutsch, LLP, Elliot J. Zucker, and Mark J. Aaronson and separate motion by the respondents Kaufman Borgeest & Ryan, LLP, and Tracey A. Reiser, to dismiss the appeal on the ground that the appellant's appendix is inadequate and contains matter dehors the record, and to enlarge the time to serve and file their respective briefs.

Upon the papers filed in support of the motions and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the branches of the motion by the respondents Aaronson Rappaport Feinstein & Deutsch, LLP, Elliot J. Zucker, and Mark J. Aaronson and separate motion by the respondents Kaufman Borgeest & Ryan, LLP, and Tracey A. Reiser, which are to dismiss the appeal are denied on condition that on or before April 30, 2018, the appellant serve and file a replacement appellant's appendix and a replacement appellant's brief which does not contain matter dehors the record and complies with the CPLR and rules of this Court; and it is further,

ORDERED that branches of the motion by the respondents Aaronson Rappaport Feinstein & Deutsch, LLP, Elliot J. Zucker, and Mark J. Aaronson and separate motion by the respondents Kaufman Borgeest & Ryan, LLP, and Tracey A. Reiser, which are to enlarge the time to serve and file their respective briefs are granted, the movants' time to serve and file their respective briefs is enlarged until June 4, 2018, and the briefs shall be served and filed on or before that date; and it is further,

March 19, 2018

MANKO v GABAY

Page 1.

ORDERED that the branch of the appellant's motion which is to waive the motion filing fee is denied as unnecessary (*see* CPLR 8022[b]); and it is further,

ORDERED that the branch of the appellant's motion which is to waive compliance with the requirements of 22 NYCRR 670.10.2(f) regarding certification of the appellant's appendix is denied with leave to renew by a motion made simultaneously with the filing of the replacement appendix and the replacement appellant's brief; and it is further

ORDERED that the appellant's motion is otherwise denied.

SCHEINKMAN, P.J., BALKIN, AUSTIN 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