

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

M247878
E/afa

WILLIAM F. MASTRO, J.P.
JEFFREY A. COHEN
FRANCESCA E. CONNOLLY
VALERIE BRATHWAITE NELSON, JJ.

2016-04865, 2016-04866

DECISION & ORDER ON MOTION

Green Tree Servicing, LLC, respondent,
v Lawrence Molini, et al., appellants, et al.,
defendants.

(Index No. 135873/14)

Appeals from two orders of the Supreme Court, Richmond County, dated February 10, 2016, and March 14, 2016, respectively. By order to show cause dated February 6, 2018, the parties were directed to show cause before this Court why an order should or should not be made and entered dismissing the appeals on the ground that the right of direct appeal from the orders terminated upon entry of a judgment of the Supreme Court, Richmond County, in the above-entitled action dated July 10, 2017. Motion by the appellants (1) pursuant to CPLR 5520(c) to deem the notice of appeal from the orders to be a premature notice of appeal from the judgment to the extent that the judgment brings up for review the orders, to deem the record and the parties' briefs filed in connection with the appeals from the orders to be filed in connection with the appeal from the judgment, to limit the issues raised on the appeal from the judgment to the issues raised in the briefs filed in connection with the appeals from the orders, and for leave to serve and file a supplemental record containing the judgment, and (2) if that relief is granted, for leave to serve and file a motion by order to show cause to stay the sale of the subject premises and for a preference in the calendaring of the appeal from the judgment. Separate motion by the respondent to dismiss the appeals from the orders on the ground that the right of direct appeal therefrom terminated upon entry of the judgment.

Now, upon the order to show cause and the papers filed in response thereto, and upon the papers filed in support of the appellants' motion and the papers filed in opposition thereto, it is

ORDERED that the motion to dismiss the appeals from the orders initiated by the order to show cause of this Court dated February 6, 2018, and the respondent's motion to dismiss those appeals are denied; and it is further,

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ORDERED that the branch of the appellants' motion which is pursuant to CPLR 5520(c) to deem the notice of appeal from the orders to be a premature notice of appeal from the judgment to the extent that the judgment brings up for review the orders, to deem the record and the parties' briefs filed in connection with the appeals from the orders to be filed in connection with the appeal from the judgment, to limit the issues raised on the appeal from the judgment to the issues raised in the briefs filed in connection with the appeals from the orders, and for leave to serve and file a supplemental record containing the judgment is granted, the appeal from the judgment will be prosecuted under Appellate Division Docket No. 2016-04865 and not under Appellate Division Docket No. 2016-04866, and on or before April 12, 2018, the appellants shall serve and file a supplemental record containing the judgment; and it is further,

ORDERED that the appellant's motion is otherwise denied.

MASTRO, J.P., COHEN, CONNOLLY and BRATHWAITE NELSON, 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