

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

M248525  
E/afa

MARK C. DILLON, J.P.  
SANDRA L. SGROI  
ROBERT J. MILLER  
VALERIE BRATHWAITE NELSON, JJ.

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2017-05162, 2017-05683

DECISION & ORDER ON MOTION

Wells Fargo Bank, National Association,  
appellant, v Mark Barasch, et al., respondents,  
et al., defendants.

(Index No. 61855/15)

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Motion by the respondents to dismiss appeals from two orders of the Supreme Court, Westchester County, dated April 3, 2017, and April 10, 2017, respectively, on the ground that the record is inadequate and for failure to properly settle the transcript and to dismiss the appeal from the order dated April 10, 2017, on the further ground that no appeal lies as of right from an order that is not the result of a motion made on notice and leave to appeal has not been granted, or, in the alternative, to enlarge the time to serve and file a brief. Separate motion by the appellant, in effect, for leave to serve and file a supplemental record.

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

ORDERED that the appellant's motion is granted to the extent that on or before May 25, 2018, the appellant shall serve and file a supplemental record containing a transcript of the proceedings which occurred on February 16, 2017, properly settled pursuant to CPLR 5525, and the motion is otherwise denied; and it is further,

ORDERED that the branch of the respondents' motion which is to dismiss the appeals on the ground that the record is inadequate and for failure to properly settle the transcript is denied on condition that the appellant complies with the foregoing paragraph; and it is further,

ORDERED that the branch of the respondents' motion which is to dismiss the appeal from the order dated April 10, 2017, on the ground that no appeal lies as of right from an order that is not the result of a motion made on notice and leave to appeal has not been granted is held in

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abeyance and referred to the panel of Justices hearing the appeals for determination upon the argument or submission thereof; and it is further,

ORDERED that the branch of the respondents' motion which is to enlarge the respondents' time to serve and file a brief is denied as unnecessary as the respondents' brief was timely served and filed.

DILLON, J.P., SGROI, MILLER and BRATHWAITE NELSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court