

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

M248963  
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MARK C. DILLON, J.P.  
JOHN M. LEVENTHAL  
ROBERT J. MILLER  
COLLEEN D. DUFFY, JJ.

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2017-11423

DECISION & ORDER ON MOTION

J-K Apparel Sales Co., Inc., et al., respondents-appellants, v Irwin Jacobs, defendant third-party plaintiff-appellant-respondent; J-K Apparel Sales Co., Inc., et al., third-party plaintiffs-appellants-respondents; Steve Kenger, third-party defendant-respondent.

(Index No. 600612/15)

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Motion by the respondents-appellants and the third-party defendant-respondent on an appeal and cross appeal from an order of the Supreme Court, Nassau County, entered October 31, 2017, for leave to serve and file a supplemental record containing a certain document and the transcript of certain proceedings. Cross motion by the defendant third-party plaintiff-appellant-respondent and the third-party plaintiffs-appellants-respondents to strike the answering brief filed by the respondents-appellants and the third-party defendant-respondent, and to enlarge their time to serve and file a reply brief. Application by the third-party plaintiffs-appellants-respondents pursuant to 22 NYCRR 670.8(d)(2) to enlarge the time to serve and file their reply brief.

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

ORDERED that the motion is denied; and it is further,

ORDERED that the cross motion and the application are granted; and it is further,

ORDERED that the brief filed by the respondents-appellants and the third-party defendant-respondent is stricken, and on or before May 21, 2018, the respondents-appellants and the third-party defendant-respondent shall serve and file a brief which does not refer to matter dehors

April 19, 2018

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the record and includes the points of argument on the cross appeal (*see* 22 NYCRR 670.8[c][3]); and it is further,

ORDERED that the time of the defendant third-party plaintiff-appellant-respondent and the third-party plaintiffs-appellants-respondents to serve and file a reply brief is enlarged until June 4, 2018, and the reply brief shall be served and filed on or before that date.

DILLON, J.P., LEVENTHAL, MILLER and DUFFY, 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