

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

M263209  
E/mm

LEONARD B. AUSTIN, J.P.  
BETSY BARROS  
FRANCESCA E. CONNOLLY  
ANGELA G. IANNACCI, JJ.

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2018-01624

DECISION & ORDER ON MOTION

Carlos O. Torres, respondent-appellant,  
v Accumanage, LLC, defendant third-party  
plaintiff-appellant-respondent, Kerriann  
Brewer, defendant-respondent;  
NJM Construction, Inc., third-party  
defendant-respondent.

(Index No. 602097/12)

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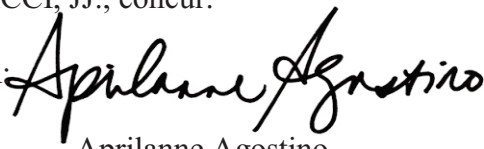
Motion by the respondent-appellant to strike Point I of the defendant third-party plaintiff-appellant-respondent's reply brief on an appeal and cross appeal from an order of the Supreme Court, Nassau County, dated December 21, 2017, on the ground that it improperly raises arguments for the first time on appeal.

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

ORDERED that the motion is granted, Point I of the defendant third-party plaintiff-appellant-respondent's reply brief is stricken, and on or before June 26, 2019, the defendant third-party plaintiff-appellant-respondent shall remove the stricken material from the copies of the defendant third-party plaintiff-appellant-respondent's reply brief filed with the Clerk of the Court and file a replacement digital copy of the defendant third-party plaintiff-appellant-respondent's reply brief which does not contain the stricken material, or serve and file a replacement defendant third-party plaintiff-appellant-respondent's reply brief, in both hard copy format and digital format in accordance with the rules (*see* 22 NYCRR 1250.9[c][1]), which does not contain the stricken material.

AUSTIN, J.P., BARROS, CONNOLLY and IANNACCI, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court

June 4, 2019

TORRES v ACCUMANAGE, LLC