

Waverly Stores Assoc. v Waverly Mews Corp.

Motion No: 2022-01642

Slip Opinion No: 2022 NYSlipOp 66491(U)

Decided on May 26, 2022

Appellate Division, First Department, Motion Decision

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Judiciary Law § 431.

This motion is uncorrected and is not subject to publication in the
Official Reports.

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Present – Hon. Cynthia S. Kern,
Jeffrey K. Oing
Peter H. Moulton
Saliann Scarpulla
John R. Higgitt,

Justice Presiding,

Justices.

Waverly Stores Associates,
Plaintiff-Appellant-Respondent,

-against-

Motion No. **2022-01642**
Index No. 158743/19
Case Nos. 2021-03923
2022-00077
2022-00078

Waverly Mews Corp.,
Defendant-Respondent-Appellant.

An appeal and cross appeal having been taken to this Court from an order of the Supreme Court, New York County, entered on or about September 22, 2021; and defendant having taken an appeal from an amended order, same Court, entered on or about October 7, 2021, and plaintiff having perfected the consolidated appeals,

And defendant having moved to strike the joint record on appeal based on plaintiff's failure to confer with the defendant regarding the content of the joint record and based on plaintiff's failure to include all documents that were e-filed in connection with the underlying motion, or in the alternative, order that the record on appeal be supplemented with the improperly omitted documents, and to adjourn the appeal and grant defendant an extension of time in which to file its responsive brief pursuant to 22 NYCRR 1250.9(g),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of granting defendant leave to file, within 20 days of the date hereof, a supplemental record that includes the sur-reply papers that defendant seeks to include in the record on appeal, without prejudice to the plaintiff-appellant raising objections thereto directly on appeal. The motion is otherwise denied, the appeal having been adjourned to the September 2022 Term by order of a Justice of this Court dated April 20, 2022.

ENTERED: May 26, 2022

A handwritten signature in black ink, appearing to read "Susanna M. Rojas". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Susanna Molina Rojas
Clerk of the Court