

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

M86713
E/cb

REINALDO E. RIVERA, J.P.
HOWARD MILLER
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2008-09031

DECISION & ORDER ON MOTION

Vincent J. Finnegan, appellant,
v John H. Murphy, et al., respondents.

(Index No. 26922/07)

Motion by the respondents Circus Man of Suffolk, Inc., and Circus Man Snacks, Inc., to dismiss an appeal from an order of the Supreme Court, Queens County, dated August 1, 2008, on the ground that the record on appeal is inadequate, or to deem the record to be an appendix, or to enlarge the time to serve and file a brief and for leave to file an appendix.

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

ORDERED that the branch of the motion which is to dismiss the appeal on the ground that the record on appeal is inadequate is denied; and it is further,

ORDERED that the branch of the motion which is to deem the record on appeal filed by the appellant to be the appellant's appendix is granted; and it is further,

ORDERED that the branch of the motion which is for leave to file an appendix is denied as unnecessary as the movants may file an appendix at the time that they file their brief (*see* CPLR 5528[b]); and it is further,

ORDERED that the branch of the motion which is to enlarge the time to serve and file a brief is granted and the movants' time to serve and file a brief is enlarged until June 15, 2009, and the movants' brief must be served and filed on or before that date.

RIVERA, J.P., MILLER, BALKIN and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 15, 2009

FINNEGAN v MURPHY