

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

M93715
E/sl

REINALDO E. RIVERA, J.P.
STEVEN W. FISHER
JOSEPH COVELLO
LEONARD B. AUSTIN, JJ.

2008-04884

DECISION & ORDER ON MOTION

Sharon Celia Polsky, appellant,
v Scott Tuckman, et al., respondents.

(Index No. 14056/01)

Motion by the respondents on an appeal from an order of the Supreme Court, Nassau County, dated April 1, 2008, to enlarge the record to include an order of the same court dated March 22, 2006, and a transcript of the proceedings which occurred before the same court on July 26, 2006. Cross motion by the appellant to strike stated portions of the respondents' brief on the ground that they refer to matter de hors the record.

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

ORDERED that the branch of the motion which is to enlarge the record to include the order dated March 22, 2006, is granted, and on or before November 12, 2009, the respondents shall serve and file a supplemental record containing that order; and it is further,

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

ORDERED that cross motion is granted; and it is further,

ORDERED that the following material is stricken from the respondents' brief:

- (1) footnote 2, on pages 3 and 4,
- (2) on page 3, beginning with the word "Subsequently" in the penultimate paragraph through the end of that page, which ends with the words "application by the plaintiff-appellant pro se to";

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- (3) on page 4, the entire page except for the last sentence on the last line of that page, which contains the words “Subsequently, a motion for summary judgment was made with the”;
- (4) on page 5 the second and third full paragraphs, including footnotes associated with those paragraphs;
- (5) entire page 6;
- (6) entire page 7 except for the last sentence “Thereafter, the plaintiff-appellant took this appeal to this court (R3)”;
- and
- (7) on page 11 the first sentence of the first full paragraph and the following words in that paragraph “and the minutes of the conference held before the court in July of 2006”; and it is further,

ORDERED that on or before November 12, 2009, the respondents shall or remove the stricken material from the copies of their brief filed in the Clerk of the court or serve and file a replacement brief that does not contain the stricken material; and it is further,

ORDERED that the appellant’s time to serve and file a reply brief is enlarged until November 30, 2009, and the appellant’s reply brief shall be served and filed on or before that date.

RIVERA, J.P., FISHER, COVELLO and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court