

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Jonathan Lippman, Presiding Justice,  
Peter Tom  
Angela M. Mazzaelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
Francis Otano,

Plaintiff-Respondent,

-against-

M-1612X

Index No. 15489/06

Ramon A. Reynoso,

Defendant-Appellant,

Neil Dalton,

Defendant.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about November 9, 2007,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 20, 2008, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Jonathan Lippman, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
In Re: The Topps Co., Inc.,  
Shareholder Litigation.

- - - - -  
William Lipscomb, etc., et al.,

M-1614X

Plaintiffs-Respondents,  
  
-against-

Index No. 600715/07

The Topps Co., Inc., et al.,  
  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 11, 2007 (mot. seq. no. 002),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 19, 2008, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Jonathan Lippman, Presiding Justice,  
Peter Tom  
John T. Buckley  
Karla Moskowitz, Justices.

-----X  
The Sacred Heart African Orthodox  
Church, Inc.,  
Plaintiff-Appellant,

-against-

The City of New York, et al.,  
Defendants-Respondents.

M-637  
M-1247  
Index No. 105301/06

-----X

Defendants-respondents having moved to dismiss the appeal taken from the order of the Supreme Court, New York County, entered on or about November 21, 2006 (mot. seq. no. 001) (M-637),

And plaintiff-appellant having cross-moved for an enlargement of time in which to perfect the appeal (M-1247),

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

Ordered that the motion is granted (M-637), the cross motion is denied (M-1247), and the appeal is dismissed.

E N T E R:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Jonathan Lippman, Presiding Justice,  
Peter Tom  
John T. Buckley  
Karla Moskowitz, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-997  
Ind. No. 4984/06

Leroy McFarlane, also known as  
Leroy T. McFarlane,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, New York County, rendered on or about June 26, 2007, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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 deeming the notice of appeal as timely filed and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11<sup>th</sup> Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Jonathan Lippman, Presiding Justice,  
David Friedman  
James M. Catterson  
Karla Moskowitz, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-1269  
Ind. No. 5893/05

Sean Webb,  
Defendant-Appellant.

-----X

Defendant-appellant having moved for leave to file a pro se supplemental brief in connection with an appeal from a judgment of the Supreme Court, New York County, rendered on or about August 16, 2006, for a copy of the trial transcripts and for an enlargement of time in which to file said pro se supplemental brief, and for other relief,

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 directing defendant to serve and file 10 copies of his pro se supplemental brief on or before July 7, 2008 for the September 2008 Term, to which Term the appeal is adjourned. The Clerk of the Court is directed to forward to the Warden at the State correctional facility wherein defendant is incarcerated a transcript of the minutes relating to defendant's appeal, said transcript to be made available to appellant and returned by appellant to this Court when submitting the pro se supplemental brief hereto. The appeal will not be heard unless and until all material furnished to appellant has been returned. The motion is otherwise denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Jonathan Lippman, Presiding Justice,  
Peter Tom  
John T. Buckley  
Karla Moskowitz, Justices.

-----X  
In the Matter of the Application of  
L.A., M.D., M.P.H.,  
Petitioner-Respondent,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-1245  
Index No. 400227/06

Antonia C. Novello, Commissioner,  
New York State Department of Health,  
and New York State Department of  
Health,  
Respondents-Appellants.

-----X

Respondents-appellants having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about March 24, 2006 (mot. seq. no. 001),

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 enlarging appellants' time in which to perfect the appeal to the December 2008 Term.

E N T E R:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Jonathan Lippman, Presiding Justice,  
Peter Tom  
John T. Buckley  
Karla Moskowitz, Justices.

-----X  
Bruce S. Simon,

Plaintiff-Respondent-Appellant,

M-1300

-against-

Index No. 303306/01

Amy E. Simon,

Defendant-Appellant-Respondent.

-----X

An appeal and cross appeal having been taken to this Court from the judgment of divorce of the Supreme Court, New York County, entered on or about April 1, 2005,

And counsel for defendant-appellant-respondent having moved for leave to perfect the direct appeal upon an oversized appellant's brief and for an enlargement of time in which to perfect said appeal,

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 only to the extent of enlarging the time in which to perfect the appeal and cross appeal to the September 2008 Term. Counsel for defendant-appellant-respondent is directed to perfect the appeal upon an appellant's brief which complies with the requirements set forth in Rule 600.10(d)(1)(i).

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Jonathan Lippman, Presiding Justice,  
Richard T. Andrias  
Luis A. Gonzalez  
Eugene Nardelli, Justices.

-----X  
Alex Delgado,  
Plaintiff-Appellant,

-against-

M-14  
Index No. 107935/04

Sessa NYC, LLC, et al.,  
Defendants,

J.S.B. Properties, LLC,  
Defendant-Respondent.  
-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on November 15, 2007 (Appeal No. 2006),

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 denied.

E N T E R:

  
Clerk.



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Jonathan Lippman, Presiding Justice,  
Richard T. Andrias  
Luis A. Gonzalez  
Eugene Nardelli, Justices.

-----X  
Eric Kaufman,  
Plaintiff-Respondent,

-against-

Joseph Gilbert,  
Defendant,

M-6530  
Index No. 119375/02

KIMCO Realty Corporation, et al.,  
Defendants-Respondents,

GMAC Leasing Corporation,  
Defendant-Appellant.

-----X

Defendant-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on November 15, 2007 (Appeal No. 2012),

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 denied.

E . N T E R :

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Milton L. Williams, Justices.

-----X  
Dwayne Carter, et al.,

Plaintiffs-Appellants,

M-1165

-against-

Index No. 25043/04

New York City Transit Authority,  
sued herein as New York City  
Authority, et al.,

Defendants-Respondents.

-----X

Defendants-respondents having moved for dismissal of plaintiffs' appeal taken to this Court from the order of the Supreme Court, Bronx County, entered on or about May 8, 2007,

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 and the appeal is dismissed.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Milton L. Williams, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-1395  
Ind. No. 3687N/05

Wander Duran De La Rosa,  
Defendant-Appellant.

-----X

An order of this Court having been entered on March 4, 2008 (M-449) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about June 28, 2006, and assigning Robert S. Dean, Esq., as counsel on the aforesaid appeal,

And Jorge Guttlein, Esq. having moved to be relieved as counsel and for substitution of counsel, and related relief,

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

It is ordered that the motion which seeks to relieve Jorge Guttlein, Esq. as counsel is granted, and so much thereof which seeks the substitution of counsel is denied, as unnecessary. (See the order of this Court entered March 4, 2008 [M-449], a copy of which is annexed hereto.)

E N T E R:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Milton L. Williams, Justices.

-----X  
The People of the State of New York,

Respondent,

-against-

M-1080  
Ind. No. 800/07

James Tucker,

Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about January 18, 2008, for leave to prosecute the appeal as a poor person, on the original record and upon a reproduced appellant's brief, and for related relief,

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 only to the extent of deeming the notice of appeal timely filed.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101(a), including the amount and sources of his income and listing his property with its value.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Milton W. Williams, Justices.

-----X  
In the Matter of

Tonya A.,  
Petitioner-Respondent,

M-1198  
Docket No. F-17620-04/05A

-against-

Hal H.,  
Respondent-Appellant.

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal taken from the order of the Family Court, Bronx County, entered on or about January 15, 2006, and for assignment of counsel, a free copy of the transcript, and related relief,

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 denied.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
David Friedman  
Luis A. Gonzalez  
James M. McGuire, Justices.

-----X  
Edward Cohen, et al.,  
Plaintiffs-Appellants,

-against-

M-1204  
Index No. 110800/05

Memorial Sloan-Kettering Cancer Center,  
et al.,  
Defendants-Respondents.

-----X

Defendants-respondents having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on February 5, 2008 (Appeal No. 1541),

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, and this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

"Was the order of this Court, which modified the order of the Supreme Court properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

E N T E R:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Milton L. Williams, Justices.

-----X  
Century Indemnity Company,  
Plaintiff-Appellant,

-against-

M-1392  
Index No. 603405/01

Brooklyn Union Gas Company,  
Defendant-Respondent.  
-----X

Brooklyn Union Gas Company,  
Plaintiff-Respondent,

-against-

Index No. 403087/02

Century Indemnity Company,  
Defendant-Appellant.  
-----X

Plaintiff/defendant-appellant having moved for consolidation of the appeals taken from the orders of the Supreme Court, New York County, entered on or about May 21, 2007 (mot. seq. no. 010) and (mot. seq. no. 016), with the appeal taken from the order of said Court entered on or about November 5, 2007 (mot. seq. no. 014),

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 permitting appellant to prosecute the consolidated appeals upon 10 copies of one record and of one set of appellant's points covering the appeals and appellant is directed to so perfect for the October 2008 Term.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT : Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Milton L. Williams, Justices.

-----X  
In the Matter of the Application for  
the Guardianship and Custody of

Charles Michael J.,  
Destiny Jess M.,  
Eduardo M.,  
Romeo Cesar J.,  
and Smooth Love J.,

M-1236  
Docket Nos. B9616/05  
B9617/05  
B9618/05  
B9619/05  
B9620/05

Dependent Children Under 18 Years of  
Age Pursuant to §384-b of the Social  
Services Law of the State of New York.

-----  
The Children's Aid Society, et al.,  
Petitioners-Respondents,

Zaida M.,  
Respondent-Appellant.

-----  
Steven Banks, Esq.,  
Law Guardian for the Children.

-----X  
Respondent-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Family Court, Bronx County, entered on or about April 18, 2007,

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 enlarging the time in which to perfect the appeal to the September 2008 Term.

ENTER:

  
Clerk.



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Milton L. Williams, Justices.

-----X  
Tower Insurance Company of New York,  
Plaintiff-Respondent,

-against-

M-1461  
Index No. 106820/05

S&H Bondi, Inc., et al.,  
Defendants-Appellants,

-and-

Moussa Diagne,  
Defendant.

-----X

Defendants-appellants having moved for an enlargement of time in which to perfect the appeal from the unfiled order/judgment of the Supreme Court, New York County, dated May 14, 2007,

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 enlarging the time in which appellant may perfect the appeal to the September 2008 Term. Appellant is directed to immediately file the aforesaid order/judgment.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Milton L. Williams, Justices.

-----X  
In the Matter of the Application of

SB&W Realty Corp.,  
Petitioner-Appellant,

M-1168  
Index No. 112188/06

For a Judgment Pursuant to  
Article 78 of the CPLR, etc.,

-against-

New York City Water Board, et al.,  
Respondents-Respondents.

-----X  
Petitioner-appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, entered on or about May 21, 2007 (mot. seq. no. 001),

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 enlarging appellant's time in which to perfect the appeal to the November 2008 Term.

E N T E R:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
Luis A. Gonzalez  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-983  
Ind. No. 11962/95

Cesar Rojas,  
Defendant-Appellant.

-----X

Defendant-appellant's counsel having moved for dismissal of defendant's appeal taken from the order of the Supreme Court, New York County, entered on or about September 12, 2007, without prejudice to reinstatement at such time appellant becomes amenable to the jurisdiction of this Court,

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 deeming the appeal withdrawn.

ENTER:

  
Clerk.

STATE OF NEW YORK  
APPELLATE DIVISION: FIRST DEPARTMENT

BEFORE: Hon. John T. Buckley  
Justice of the Appellate Division

-----X  
The People of the State of New York,  
Respondent,

M-818  
Ind. No. 2404/06

-against-

ORDER DENYING ROR OR  
BAIL PENDING APPEAL

Rodney McNeil,  
Defendant-Appellant.

-----X

An appeal having been taken to this Court by the above-named defendant from the judgment of the Supreme Court, New York County, rendered on January 29, 2008, and defendant having moved, pursuant to CPL 460.50 and 530.50 for an order of recognizance or to be admitted to bail pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers filed in support of said motion, and further papers filed in relation thereto; and due deliberation having been had thereon,

It is ordered that the motion be and the same hereby is denied. (See M-818A, decided simultaneously herewith.)

Dated: March 17, 2008  
New York, New York

ENTERED: April 3, 2008

  
Justice of the Appellate Division

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
Milton L. Williams  
John T. Buckley  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-818A  
Ind. No. 2404/06

Rodney McNeil,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about January 29, 2008, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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 permitting the appeal to be heard upon the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record. (See M-818, decided simultaneously herewith.)

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
Luis A. Gonzalez  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-1311  
Ind. No. 125/07

Jemel Tinsley,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about January 24, 2008, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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 denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101, setting forth the amount and sources of monies to pay the fee of trial counsel, Stuart R. Shaw, Esq., and to post the \$15,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute this appeal. The application shall include an affidavit of the source[s] of all funds utilized by defendant.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
Luis A. Gonzalez  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-1283  
Ind. No. 3635/07

Tyrone Bolling,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about February 13, 2008, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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 denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101, setting forth facts sufficient to establish that defendant has no funds or assets with which to prosecute the appeal, including the amount and sources of his income and listing his property with its value, and an explanation why similar funds are not available to prosecute this appeal.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
Luis A. Gonzalez  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-1282  
Ind. No. 3773/06

Jimmy Alvarado,  
Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, Bronx County, rendered on or about February 14, 2008, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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 denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101, setting forth facts sufficient to establish that defendant has no funds or assets with which to prosecute the appeal, including the amount and sources of his income and listing his property with its value, and an explanation why similar funds are not available to prosecute this appeal.

ENTER:

  
Clerk



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
Luis A. Gonzalez  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-1316  
Ind. No. 2296/06

James Lattimore,  
Defendant-Appellant.  
-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about December 12, 2007, for leave to prosecute the appeal as a poor person, on the original record and upon a reproduced appellant's brief, and for related relief,

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 only to the extent of deeming the moving papers a timely filed notice of appeal.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101, setting forth the amount and sources of funds to pay the fee of trial counsel, Manuel A. Sanchez, Jr., Esq., and an explanation as to why similar funds are not available to prosecute this appeal. The application shall include an affidavit of the source[s] of all funds utilized by defendant.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
Luis A. Gonzalez  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,

Respondent,

-against-

M-1332  
Ind. No. 6331/06

Cornell Curry,

Defendant-Appellant.

-----X

Defendant-appellant pro se having moved for an enlargement of time in which to perfect the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about March 28, 2007, and for related relief,

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 enlarging the time in which to perfect the appeal to the September 2008 Term.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
Luis A. Gonzalez  
Eugene Nardelli  
James M. Catterson, Justices.

-----X  
In Re: New York Diet Drug Litigation

-----  
Clara Appel-Hole, et al.,  
Plaintiffs,

-against-

M-1203  
Index Nos. 700000/98  
115937/99

Wyeth-Ayerst Laboratories, et al.,  
Defendants.

-----  
Parker & Waichman LLP, et al.,  
Intervenor Plaintiffs-Respondents,

-against-

Napoli, Kaiser & Bern, LLP, et al.,  
Intervenor Defendants-Appellants.

-----X

Intervenor defendants-appellants having moved for reargument of the decision and order of this Court entered on January 31, 2008 (Appeal No. 2184N),

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 denied.

E N T E R:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Angela M. Mazzairelli, Justice Presiding,  
Luis A. Gonzalez  
John T. Buckley  
James M. McGuire, Justices.

-----X  
Haiyan Lu, M.D.,  
Plaintiff-Appellant,

-against-

M-848  
Index No. 110813/03

Henry M. Spinelli, M.D., et al.,  
Defendants-Respondents.  
-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on October 25, 2007 (Appeal No. 1822),

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 denied.

E N T E R:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Angela M. Mazzairelli, Justice Presiding,  
Richard T. Andrias  
Luis A. Gonzalez  
Rolando T. Acosta, Justices.

-----x  
Jagadish C. Manohar,  
Plaintiff-Appellant,

-against-

M-1211 & M-1427  
Index No. 602075/07

The City of New York Human Resources  
Administration, et al.,  
Defendants-Respondents.  
-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about December 14, 2007 (mot. seq. no. 001), and said appeal having been perfected,

And defendants-respondents having jointly moved for an order striking the brief and record on appeal filed by plaintiff, requiring him to prepare and file a new and proper record containing only the papers submitted to Supreme Court prior to issuance of the court's determination with a revised brief based on that record, directing that the appeal be re-noticed for a Term certain, and for related relief (M-1211),

And plaintiff-appellant having cross-moved for an order finding defendants have committed perjury (M-1427),

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

It is ordered that the motion is granted to the extent of striking the brief and record filed by appellant, without prejudice to appellant re-filing a proper brief and record in compliance with CPLR 5526 and 5528, and 22 NYCRR 600.10 for the September 2008 Term, without prejudice to defendant's seeking costs with respect thereto on the appeal. The cross motion is denied. The Clerk is directed to accept plaintiff's filing without further fee.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
David Friedman  
John W. Sweeny, Jr., Justices.

-----X  
Diana Mastroddi,  
Plaintiff-Respondent,

-against-

M-1195  
Index No. 102790/05

WDG Dutchess Associates Limited  
Partnership, et al.,  
Defendants,

North Atlantic Industrial Maintenance  
Inc.,  
Defendant-Appellant.

-----X

Defendant-appellant having moved for an order staying the trial in the above-entitled action pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about August 16, 2007 (mot. seq. no. 002),

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.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Richard T. Andrias, Justice Presiding,  
David Friedman  
John T. Buckley  
James M. McGuire  
Karla Moskowitz, Justices.

-----X  
The People of the State of New York,

Respondent,

M-147

-against-

Ind. No. 3080/04

Ralph Hall,

Defendant-Appellant.

-----X

An order of this Court having been entered on November 16, 2006 (M-5477), granting poor person relief and assigning Steven Banks, Esq., The Legal Aid Society, as counsel for defendant for purposes of prosecuting the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about October 7, 2005,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and for related relief,

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

It is ordered that said application is denied as premature, the appeal having not yet been perfected.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
John W. Sweeny, Jr.  
James M. McGuire, Justices.

-----X  
The People of the State of New York,

Respondent,

-against-

M-201  
Ind. No. 4186/04

Terry Bligen,

Defendant-Appellant.

-----X

A decision and order of this Court having been entered on December 5, 2006 (Appeal No. 9727), unanimously affirming the judgment of the Supreme Court, New York County (Fitzgerald, J.), rendered on January 6, 2005,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and for related relief,

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

It is ordered that said application is denied.

ENTER:

  
Clerk.



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. David B. Saxe, Justice Presiding,  
Milton L. Williams  
John W. Sweeny, Jr. Justices.  
James M. McGuire,

-----X  
Arthur Morrison,  
Plaintiff-Appellant,  
  
-against-  
  
Thomas F.X. Dunne,  
Defendant-Respondent.  
-----X

M-1135  
Index No. 404055/02

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about November 14, 2006,

And an order of this Court having been entered on September 25, 2007 (M-4329), a copy of which is annexed hereto, granting plaintiff-appellant leave to prosecute the aforesaid appeal, as a poor person, upon the original record and upon a reproduced appellant's brief,

And plaintiff-appellant having moved for an order directing the Clerk of the Supreme Court, New York County, to provide plaintiff with a copy of certain "transcripts" which were not part of the original record, and enlarging the time in which to perfect the aforesaid appeal,

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 only to the extent of enlarging the time in which to perfect the appeal to the September 2008 Term, and the motion is otherwise denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. David B. Saxe, Justice Presiding,  
John W. Sweeny, Jr.  
James M. McGuire  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,

Respondent,

-against-

M-1132  
Ind. No. 1973/81

Milton Jones,

Defendant-Appellant.

-----X

Defendant-appellant having moved for reargument and/or reconsideration of the decision and order of this Court entered on December 10, 1985 (Appeal No. 25163),

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 denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. David Friedman, Justice Presiding,  
Luis A. Gonzalez  
James M. McGuire  
Karla Moskowitz, Justices.

-----X  
In the Matter of a Family Offense  
Proceeding.

Jacqueline L.,

M-976

Petitioner-Respondent,

IDV Docket Nos. 0223-04/04A  
0223-04/05C

-against-

Juan L.,

Respondent-Appellant.

-----X  
An appeal having been taken from Orders of Commitment of the Supreme Court, Bronx County, Integrated Domestic Violence Court, both entered on or about January 18, 2007,

And respondent-appellant having moved for an enlargement of time in which to perfect the aforesaid appeal, for leave to prosecute the appeal, as a poor person, upon the original record and upon a reproduced appellant's brief, and for related relief,

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 denied and, sua sponte, the appeal is dismissed.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. David Friedman, Justice Presiding,  
Luis A. Gonzalez  
James M. McGuire  
Karla Moskowitz, Justices.

-----X  
In the Matter of a Proceeding For  
Custody and/or Visitation Under  
Article 6 of the Family Court Act.

Osbourne S.,  
Petitioner-Respondent, M-622  
Docket Nos. V5694/00  
-against- V7441/06

Regina S.,  
Respondent-Appellant.

-----X  
Respondent-appellant mother having moved for dismissal of the appeals taken from orders of the Family Court, Bronx County, entered on or about August 22, 2006 and December 5, 2006, respectively,

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

Ordered that the motion is granted to the extent of dismissing the appeal taken from the order entered on or about December 5, 2006. Respondent-appellant mother is directed to perfect the appeal taken from the order entered on or about August 22, 2006 for the September 2008 Term, without prejudice to seek withdrawal thereof upon entry of a new custody order.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Luis A. Gonzalez, Justice Presiding,  
Milton L. Williams  
James M. Catterson  
Karla Moskowitz, Justices.

-----X  
Lucy McMurray,  
Plaintiff-Respondent,

-against-

M-930  
Ind. No. 308807/04

Frank McMurray,  
Defendant-Appellant.  
-----X

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about October 18, 2006 (mot. seq. no. 006),

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 denied, and sua sponte, the appeal is dismissed.

E N T E R:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Luis A. Gonzalez, Justice Presiding,  
Milton L. Williams  
James M. Catterson  
Karla Moskowitz, Justices.

-----X  
Sophie Cahen-Vorburger,  
Petitioner-Respondent,

-against-

M-955  
Index No. 116877/05

Chase A. Caro, Caro & Associates, P.C.,  
Hunterbrook 2000 LLC, and Quiveron  
Worldwide, S.A.,  
Respondents-Appellants,

-and-

Rolande Cutner,  
Respondent.

-----X

Respondents-appellants having moved for an enlargement of time in which to perfect the appeal taken from the judgment of the Supreme Court, New York County, entered on or about October 6, 2006,

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 denied and, sua sponte, the appeal is dismissed.

E N T E R:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Luis A. Gonzalez, Justice Presiding,  
Milton L. Williams  
James M. Catterson  
Karla Moskowitz, Justices.

-----X  
In the Matter of the Application  
of Edwin Torres,  
Petitioner,

For a Judgment Pursuant to Article 78 M-1125 & M-1330  
of the Civil Practice Law and Rules, Index No. 119071/06

-against-

Tino Hernandez, etc.,  
Respondent.  
-----X

An Article 78 proceeding having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about March 30, 2007 (mot. seq. no. 001), to review a determination of respondent,

And respondent having moved to dismiss the aforesaid proceeding (M-1125),

And petitioner having cross-moved to enlarge the time in which to perfect the proceeding (M-1330),

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

It is ordered that respondent's motion to dismiss the proceeding (M-1125) is granted unless the proceeding is perfected for the September 2008 Term. Upon failure to so perfect, an order dismissing the proceeding may be entered ex parte, provided respondent serves a copy of this order upon the petitioner within 10 days after the date of entry hereof. Plaintiff's cross motion for an enlargement of time in which to perfect the proceeding (M-1330) is granted accordingly.

ENTER:

  
Clerk.

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION : FIRST JUDICIAL DEPARTMENT

BEFORE: **Hon. Angela M. Mazzarelli,**  
Justice of the Appellate Division

-----X  
**The People of the State of New York,**

M-722  
Ind. No. 2900/03

-against-


CERTIFICATE  
DENYING LEAVE

**Tyrone Williams,**

Defendant.

-----X

I, Angela M. Mazzarelli, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, Bronx County (Steven Lloyd Barrett, J.), entered on or about November 26, 2007, is hereby denied.

  
\_\_\_\_\_  
Justice

Dated: New York, New York

Entered: April 3, 2008



SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION : FIRST JUDICIAL DEPARTMENT

BEFORE: Hon. Eugene L. Nardelli  
Justice of the Appellate Division

-----X  
The People of the State of New York,

M-1043  
Ind. No. 8512/98

-against-

CERTIFICATE  
DENYING LEAVE

Darius Harrison,

Defendant.

-----X

I, Eugene L. Nardelli, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, section 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, Bronx County, entered on or about January 22, 2008, is hereby denied.

  
\_\_\_\_\_  
Justice of the Appellate Division

Dated: New York, New York

Entered: April 3, 2008

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present - Hon. Peter Tom, Richard T. Andrias David B. Saxe Eugene Nardelli John W. Sweeny, Jr.,	Justice Presiding,    Justices.
---	---

-----X

In the Matter of Michael D. Jaspan  
(admitted as Michael David Jaspan),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee  
for the First Judicial Department,  
Petitioner,

M-652

Michael D. Jaspan,  
(OCA Atty. Reg. No. 1685452)  
Respondent.

-----X

The Departmental Disciplinary Committee for the First Judicial Department, by its Chief Counsel, Alan W. Friedberg (Vitaly Lipkansky, of counsel), having moved this Court on March 3, 2008, for an order pursuant to 22 NYCRR 603.11 accepting the affidavit of resignation of respondent (who, as Michael David Jaspan, was admitted to practice as an attorney and counselor-at-law in the State of New York at a Term of the Appellate Division of the Supreme Court for the First Judicial Department on June 16, 1980), sworn to on January 18, 2008; stating, inter alia, that he submits his resignation freely and voluntarily without coercion or duress, that he is fully aware of the implication of submitting his resignation, that he is aware that the Committee is conducting an investigation based upon allegations against him, and that he cannot successfully defend himself on the merits against disciplinary charges based upon these allegations; and striking respondent's name from the roll of attorneys and counselors-at-law in the State of New York,

Now, upon reading and filing the papers with respect to the motion, and the affidavit of resignation of respondent, sworn to on January 18, 2008, and due deliberation having been had thereon, and upon the Opinion Per Curiam filed herein, it is unanimously,

Ordered that the motion is granted, respondent's resignation is accepted and his name is stricken from the roll of attorneys and counselors-at-law in the State of New York, effective nunc pro tunc to January 18, 2008, and it is further,

Ordered that respondent is commanded to desist and refrain from the practice of law in any form, either as principal or agent, clerk or employee of another; that respondent is forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority; that respondent is forbidden to give to another an opinion as to the law or its application or any advice in relation thereto. Respondent is directed to fully comply with the provisions of Title 22, Section 603.13, of the Rules of this Court, a copy of which is annexed hereto and made a part hereof.

ENTER:

A handwritten signature in black ink, appearing to be "J. W. L.", written over a horizontal line.

Clerk

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

APR 3 2008

Peter Tom,	Justice Presiding,
Richard T. Andrias	
David B. Saxe	
Eugene Nardelli	
John W. Sweeny, Jr.,	Justices.

-----X

In the Matter of Michael D. Jaspan  
(admitted as Michael David Jaspan),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee for the First Judicial Department, Petitioner,	M-652
--	-------

Michael D. Jaspan,  
Respondent.

-----X

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Michael D. Jaspan, was admitted to the Bar of  
the State of New York at a Term of the Appellate Division  
of the Supreme Court for the First Judicial Department on  
June 16, 1980.

Alan W. Friedberg, Chief Counsel, Departmental  
Disciplinary Committee, New York  
(Vitaly Lipkansky, of counsel), for petitioner.

Sarah Diane McShea, for respondent.

M-652 - March 3, 2008

IN THE MATTER OF MICHAEL D. JASPAN, AN ATTORNEY

PER CURIAM

Respondent Michael D. Jaspán was admitted to the practice of law in the State of New York by the First Judicial Department on June 16, 1980 and, at all times relevant to this matter, has maintained an office for the practice of law within this Department.

The Departmental Disciplinary Committee now moves for an order, pursuant to 22 NYCRR 603.11, accepting respondent's resignation from the practice of law and striking his name from the roll of attorneys, effective immediately. An attorney who is the subject of an investigation or pending disciplinary proceeding may resign from the practice of law by submitting an affidavit of resignation to the Committee stating his intention to resign (22 NYCRR 603.11[a]).

Respondent's affidavit of resignation, sworn to on January 18, 2008, complies with the requirements of Section 603.11 in that he avers that his resignation is freely given and voluntarily tendered, without coercion or duress, and that he is fully aware of the implications of submitting his resignation. Respondent further acknowledges that he is under investigation by the Committee based upon a referral from the New York State Attorney General's office into allegations that as Executive

Director of the Fischel Foundation, a not-for-profit charitable organization, respondent intentionally misappropriated funds belonging to the Foundation for his personal use. Respondent allegedly deposited checks payable to the Foundation into his attorney trust account, and then transferred those funds into his personal account. Respondent admits that prior to the referral by the Attorney General's office, he settled any and all claims against him. Finally, respondent acknowledges that if charges were brought against him predicated upon the misconduct under investigation, he could not successfully defend himself against such charges.

Accordingly, the motion should be granted, respondent's resignation accepted, and his name stricken from the roll of attorneys and counselors-at-law, effective January 18, 2008.

All concur.

Order filed.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT: Hon. Jonathan Lippman, Presiding Justice,  
Peter Tom  
Milton L. Williams  
Rolando T. Acosta, Justices.

-----X  
OTA Hotel Owner, LP (as successor  
in interest to On the Ave Owner, LLC;  
as successor in interest to 2170-2178  
Broadway Owner, LLC)  
Petitioner-Landlord,

-against-

Index No. L&T 92739/04

Joann Ross, etc.,  
Respondent-Tenant,

"John and Jane Doe",  
Respondent-Undertenant.

-----X  
In the Matter of the Application of

Robert Doar, etc.,  
Petitioner,

For the Appointment of a Guardian of the  
Personal Needs and Property Management of

M-1376  
Index No. 400458/08

Joann Ross, also known as Joan Ross,  
also known as Joanne Ross,  
Respondent,

A Person Alleged to be Incapacitated.

-----X

Petitioner-landlord having moved pursuant to CPLR 5704(a),  
for vacatur of a temporary restraining order issued by a Justice  
of the Supreme Court, New York County, on or about March 5, 2008,  
with respect to the proceeding under Index No. 400458/08,

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 denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Jonathan Lippman, Presiding Justice,  
Peter Tom  
Milton L. Williams  
Rolando T. Acosta, Justices.

-----X  
In the Matter of the Application of

New York State Division of Human Rights,  
Petitioner-Respondent,

M-1718  
Index No. 1726/07

-against-

H&R Block Tax Services, Inc.,  
et al.,  
Respondents-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about March 6, 2008,

And respondents-appellants having moved for a stay of enforcement of the aforesaid order of Supreme Court, pending hearing and determination of the appeal,

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 on condition that the appeal is perfected for the September 2008 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided that petitioner-respondent serves a copy of this order upon appellants within 10 days after the date of entry hereof.

ENTER:



Clerk.



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

Present: Hon. Richard T. Andrias, Justice Presiding,  
David Friedman  
John T. Buckley  
James M. Catterson  
Rolando T. Acosta, Justices.

-----X  
Frank Callan, et al.,  
Plaintiffs-Appellants-Respondents,

M-1491

-against-

Index No. 108305/05

Structure Tone, Inc.,  
Defendant-Respondent-Appellant.  
-----X

Structure Tone, Inc.,  
Third-Party Plaintiff-Respondent-  
Appellant,

-against-

Index No. 591085/05

Frank Callan, et al.,  
Third-Party Defendant-Appellant-  
Respondent.  
-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about May 30, 2007 (mot. seq. no. 001), and plaintiffs having perfected the direct appeal for the June 2008 Term of this Court,

And defendant/third-party plaintiff-respondent-appellant having moved for an enlargement of time in which to perfect the cross appeal,

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 directing movant to perfect the cross appeal on or before April 16, 2008 for the June 2008 Term.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 3, 2008.

PRESENT - Hon. Luis A. Gonzalez, Justice Presiding,  
Eugene Nardelli  
John T. Buckley  
James M. Catterson, Justices.

-----X  
Rebecca Reyes,  
Plaintiff-Respondent,

-against-

M-1411  
Index No. 24482/01

CSX Transportation, Inc., and  
New York City Economic Development  
Corporation,  
Defendants-Respondents.

-----X  
CSX Transportation, Inc.,  
Third-Party Plaintiff,

-against-

Third-Party  
Index No. 83300/02

Hunt's Point Terminal Produce  
Cooperative Association, Inc.,  
Third-Party Defendant.

-----X  
CSX Transportation, Inc.,  
Second Third-Party  
Plaintiff-Appellant,

-against-

New York City Economic Development  
Corporation, et al.,  
Second Third-Party Defendants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about December 17, 2007,

And plaintiff-respondent Rebecca Reyes having moved for an order compelling second third-party plaintiff-appellant CSX Transportation, Inc. to supplement the record on appeal to include the motion papers attached to plaintiff's motion as "Exhibit B", and for an adjournment of the aforesaid appeal,

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 denied without prejudice to plaintiff-respondent filing a supplemental record at the time of the filing of the respondent's brief on or before April 16, 2008 for the June 2008 Term.

ENTER:

A handwritten signature in black ink, appearing to be "J.W.L.", written over a horizontal line. The signature is stylized and somewhat illegible.

Clerk.