

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 May 6, 2008.

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

-----X  
Fitzroy Tittle,

Plaintiff-Respondent,

-against-

Turner Construction Company,

Defendant-Appellant.  
-----X

M-2059  
Index No. 6356/05

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about May 15, 2007,

Now, upon reading and filing the stipulation of the parties hereto, dated April 10, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 May 6, 2008.

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

-----X  
David Russell, et al.,

Plaintiffs-Respondents,

-against-

M-2077X  
Index No. 108822/05

The Pierpont Morgan Library and  
F.J. Sciame Construction Co., Inc.,

Defendants-Appellants.

-----X  
[And a third-party action]  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 13, 2007,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" April 21, 2008, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

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 May 6, 2008.

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

-----X  
WA Special 9 LLC,  
Plaintiff-Respondent-  
Appellant/Appellant,

-against-

M-2072X  
Index No. 117356/06

Robert Kilar, et al.,  
Defendants-Appellants-  
Respondents/Respondents.

-----X

An appeal having been taken by defendants from the order of the Supreme Court, New York County, entered on or about October 1, 2007 (mot. seq. no. 002) and a cross appeal having been taken by plaintiff from the aforesaid order; and an appeal having been taken by plaintiff from the order of said court entered on or about February 20, 2008 (mot. seq. no. 003), respectively,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" April 21, 2008, and due deliberation having been had thereon,

It is ordered that the appeals and cross appeal are withdrawn in accordance with the aforesaid stipulation.

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 May 6, 2008.

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

-----X  
Denis McCarthy and Bridget McCarthy,  
Plaintiffs-Respondents-Appellants,

-against-

M-2078X  
Index No. 111355/03

Barney Skanska Construction,  
Defendant-Respondent-Appellant,

Centrifugal Mechanical Association,  
Defendant-Appellant-Respondent,

Fleet Building Maintenance, Inc., et al.,  
Defendants.

-----X

An appeal and cross appeals having been taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about October 26, 2007 (mot. seq. no. 003),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" April 21, 2008, and due deliberation having been had thereon,

It is ordered that the appeal and cross appeals are withdrawn in accordance with the aforesaid stipulation.

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 May 6, 2008.

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

-----X  
In the Matter of

Mark Anthony McQ., II, also  
known as Mark McQ., also known  
as Marc McQ. and Tyrhiek Davon C.,  
also known as Tyrhiek C.,

A Child Under 14 Years of Age  
Pursuant to §384-b of the Social  
Services Law of the State of New York.

-----  
SCO Family of Services, et al.,  
Petitioners-Respondents,

M-1604  
Docket Nos. B25919/03  
B25920/03

Mark McQ.,  
Respondent-Appellant.

-----  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Law Guardian for the Children.

-----X

Petitioners-respondents having moved for dismissal of the appeal taken from orders 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 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 May 6, 2008.

PRESENT - Hon. Jonathan Lippman, Presiding Justice,  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz, Justices.

-----X  
Andrew J. Spinnell, Esq.,  
Petitioner-Respondent,

-against-

JP Morgan Chase Bank, N.A.,  
Respondent,

Philip Seldon,  
Respondent-Appellant.

M-1645  
Index No. 101921/07

-----X  
Petitioner-respondent having moved to dismiss the appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about February 5, 2008 (mot. seq. no. 005),

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 dismissing the appeal unless it is perfected for the October 2008 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided that petitioner-respondent serves a copy of this order upon appellant 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 May 6, 2008.

Present: Hon. Jonathan Lippman, Presiding Justice  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz, Justices.

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

-against-

M-1690  
Ind. No. 456/07

Tomás Santiago,  
Defendant-Appellant.

-----X

An order of this Court having been entered on July 19, 2007 (M-3005) 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 March 23, 2007,

And assigned counsel, Steven Banks, Esq., having moved for an order to be relieved as counsel for defendant and to substitute other counsel to prosecute defendant's 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 striking the designation of assigned counsel Steven Banks, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

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 May 6, 2008.

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

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

Respondent,

-against-

M-2063  
Ind. No. 2654/06

Herman Thomas,

Defendant-Appellant.  
-----X

An order of this Court having been entered on December 18, 2007 (M-5878) assigning Steven Banks, Esq., as counsel to prosecute defendant's appeal from a judgment of the Supreme Court, New York County, rendered on or about May 18, 2007,

Now, upon the Court's own motion,

It is ordered that the designation of assigned counsel Steven Banks, Esq., as counsel to prosecute defendant's appeal is stricken; and, pursuant to Section 722 of the County Law, Stanley Neustadter, Esq., Cardozo School of Law, 55 5th Avenue, Room 1701, New York, New York 10003, Telephone No. 212-790-0368, is substituted as counsel to prosecute the appeal. The poor person relief previously granted is continued, and the time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

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 May 6, 2008.

PRESENT: Hon. Jonathan Lippman, Presiding Justice,  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz, Justices.

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

-against-

M-1701  
Ind. No. 6459/03

John McCray,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County (Charles Tejada, J.) entered on or about March 4, 2008, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, for an enlargement of time in which to perfect the appeal, 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 on the original record 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 Clerk of the Supreme Court shall expeditiously have made and file with the criminal court (CPL 460.70) two transcripts of the stenographic minutes of the SORA hearing and any other proceedings before Justice Tejada as yet not transcribed. The Clerk shall furnish a copy of such transcripts to appellant's counsel, Steven Banks, Esq., without charge, the transcripts to be returned to this Court when appellant's brief is filed. 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 May 6, 2008.

PRESENT - Hon. Jonathan Lippman, Presiding Justice,  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz, Justices.

-----X  
Francina Price,

Plaintiff-Appellant,

-against-

Boston Road Development Corp.,

Defendant-Respondent.  
-----X

M-1676  
Index No. 24873/05

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about June 6, 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 in the County of New York on May 6, 2008.

Present: Hon. Jonathan Lippman, Presiding Justice,  
Angela M. Mazzairelli  
John W. Sweeny, Jr.  
Karla Moskowitz  
Dianne T. Renwick, Justices.

-----X  
Richard N. Djeddah,

Plaintiff-Respondent,

-against-

**M-1734**  
Index No. 350094/00

Rachel Djeddah,

Defendant-Appellant.

-----X

Defendant-appellant having moved for a stay of enforcement of the judgment of divorce of the Supreme Court, New York County, entered on or about March 21, 2008, pending hearing and determination of the appeal taken therefrom,

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 May 6, 2008.

PRESENT: Hon. Jonathan Lippman, Presiding Justice,  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz, Justices.

-----X  
Sara Kinberg,  
Plaintiff-Appellant,

-against-

M-1761  
Index No. 1628/06

Yoram Kinberg,  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal taken from an order of the Supreme Court, Bronx County, entered on or about November 2, 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 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 May 6, 2008.

Present - Hon. Jonathan Lippman, Presiding Justice,  
Luis A. Gonzalez  
Karla Moskowitz  
Rolando T. Acosta, Justices.

-----X  
184 West 10<sup>th</sup> Street Corp.,

Plaintiff-Landlord-Appellant,

-against-

M-1651  
Index No. 570228/06

Siiri Marvits,

Respondent-Tenant-Respondent.  
-----X

Plaintiff-landlord having moved for leave to appeal to this Court from the decision and order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about November 21, 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. Appellant shall file two copies of the pre-argument statement and of this order with the Clerk of the Appellate Term with proof of service, pursuant to Section 600.17 of the Rules of this Court.

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 May 6, 2008.

PRESENT - Hon. Jonathan Lippman, Presiding Justice,  
Luis A. Gonzalez  
Eugene Nardelli  
John T. Buckley  
John W. Sweeny, Jr., Justices.

-----X  
Christian Hernandez,  
Plaintiff-Respondent,

-against-

M-1361  
Index No. 14629/05

Bethel United Methodist  
Church of New York, etc.,  
Defendant-Appellant.  
-----X

Defendant-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on March 4, 2008 (Appeal No. 2229),

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 May 6, 2008.

PRESENT - Hon: Jonathan Lippman, Presiding Justice,  
Angela M. Mazzarelli  
David B. Saxe  
Milton L. Williams  
John T. Buckley, Justices.

-----X  
Emfore Corp.,  
Plaintiff-Appellant,

-against-

Blimpie Associates, Ltd., et al.,  
Defendants-Respondents.

M-248  
M-994  
Index No. 601400/04

-----X

Defendants-respondents having moved for reargument of or, in the alternative, leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 20, 2007 (Appeal No. 2382) [M-248],

And International Franchise Association having moved for leave to file a brief amicus curiae in support of the aforesaid motion (M-994),

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, to the extent it seeks reargument is granted, and, upon reargument, the decision and order of this Court entered on December 20, 2007 (Appeal No. 2382) is recalled and vacated and a new decision and order substituted therefor. (See Appeal No. 2382, decided simultaneously herewith). So much of the motion which seeks leave to appeal to the Court of Appeals is denied (M-248).

The motion seeking leave to file a amicus curiae brief is granted to the extent of deeming the amicus curiae brief served with the moving papers as filed (M-994).

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 May 6, 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-1683**  
Ind. No. 3494/05

Claudio Labour,  
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about December 13, 2005, 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.

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 May 6, 2008.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzairelli  
Milton W. Williams  
John W. Sweeny, Jr., Justices.

-----X  
In the Matter of

Kazmir K. (DOB: 11/14/93),

A Child Under the Age of 18 Years  
Alleged to Be Neglected Pursuant to  
Article 10 of the Family Court Act.

-----  
Commissioner of Social Services  
of the City of New York,  
Petitioner-Respondent,

M-1637  
Docket No. NN-11508/07

-against-

Marcus K.,  
Respondent-Appellant.

-----  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Law Guardian for the Child.

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, New York County, entered on or about February 21, 2008, and for assignment of counsel, a free copy of the transcript, 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 appellant to dispense with any fee for transferring the record from the Family Court to this Court. **Counsel is directed to immediately subpoena the record from the Family Court and to serve a copy of this order upon the Clerk of the Family Court.** The Clerk is directed to immediately have transcribed for inclusion in the record those minutes not already transcribed, as

**indicated by Counsel.** Appellant's time in which to perfect the appeal is enlarged to the October 2008 Term. So much of the motion which seeks the assignment of pro bono Counsel, the Center for Family Representation, is denied as unnecessary.

ENTER:

A handwritten signature in black ink, appearing to be "J. W. L.", written in a cursive style. The signature is positioned above the word "Clerk".

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 May 6, 2008.

Present: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
Richard T. Andrias  
Milton L. Williams, Justices.

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

Respondent,

-against-

Lavon Giles,

Defendant-Appellant.  
-----X

**M-1709**  
Ind. Nos. 4216/07  
1468/07

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 3, 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 denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), including the source(s) of funds to post the \$5,000 bail and the \$10,000 bail on the above-enumerated indictments, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the 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 May 6, 2008.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
Milton W. Williams  
John W. Sweeny, Jr., Justices.

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

Ved Parkash,  
Petitioner-Appellant,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-1553  
Index No. 8092/06

New York City Water Board, City of  
New York and New York City Department  
of Environmental Protection,  
Respondents-Respondents.

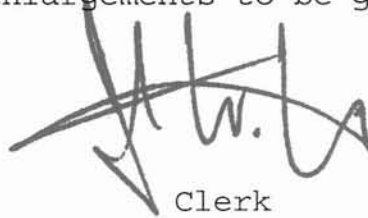
-----X

Petitioner-appellant having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about January 25, 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, with no further enlargements to be 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 May 6, 2008.

Present : Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Eugene Nardelli  
Milton L. Williams, Justices.

-----X  
Delhi Construction Corp.,

Plaintiff-Appellant,

-against-

The City of New York, et al.,

Defendants-Respondents.  
-----X

**M-1488**  
Index No. 606019/98

Plaintiff-appellant having moved for consolidation of the appeals taken from the orders of the Supreme Court, New York County, entered on or about January 26, 2007 and January 11, 2008, respectively, and for an enlargement of time in which to perfect said appeals,

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. The time in which to perfect the consolidated appeals is enlarged to the November 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 May 6, 2008.

Present: Hon. Peter Tom, Justice Presiding,  
Milton L. Williams  
James M. Catterson  
Rolando T. Acosta, Justices.

-----X  
Clark Construction Corporation,

Plaintiff-Respondent,

Marc E. Elliot and Savas Tsitiridis,

M-1866

Plaintiffs,

Index No. 122662/00

-against-

BLF Realty Holding Corp., et al.,

Defendants-Appellants.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 24, 2008 (mot. seq. no. 018), and said appeal having been perfected for the September 2008 Term of this Court,

And plaintiff Marc E. Elliot having moved for leave to intervene on the appeal and to vacate the judgment dismissing his claims against defendants,

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 May 6, 2008.

Present - Hon. Peter Tom, Justice Presiding,  
David Friedman  
Luis A. Gonzalez  
Milton L. Williams  
John W. Sweeny, Jr., Justices.

-----X  
L'Art de Jewel Ltd.,  
Plaintiff-Respondent-Appellant,

-against-

M-340

Hudson Sheraton Corporation, LLC,  
Defendant-Respondent-Appellant,

Index Nos. 601076/05  
16146/06

The Hyman Companies, Inc. doing  
business as Landau Costume Jewelry,  
Defendant-Appellant-Respondent/  
Third-Party-Plaintiff-  
Appellant-Respondent.

-against-

HST Lessee SNYT LLC,  
Third-Party Defendant-  
Respondent-Appellant.


-----X

Defendant Hudson Sheraton Corporation, LLC and third-party defendant HST Lessee SNYT LLC having moved for reargument of the decision and order of this Court entered on December 20, 2007 (Appeal Nos. 1953, 1954 and 1954A),

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 May 6, 2008.

Present - Hon. Peter Tom, Justice Presiding,  
David Friedman  
Eugene Nardelli  
James M. Catterson, Justices.

-----X  
Gerald Goldman, et al.,  
Plaintiffs-Appellants,

-against-

M-477  
Index No. 116952/04

Akin Gump Strauss Hauer &  
Feld, LLP, et al.,  
Defendants-Respondents.  
-----X

Plaintiffs-appellants 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 December 27, 2007 (Appeal Nos. 2447-2448),

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 May 6, 2008.

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

-----X  
Banc of America Securities LLC,  
Plaintiff-Respondent,

-against-

Solow Building Company II, L.L.C.,  
Defendant-Appellant,

M-763  
Index No. 600759/04

Bank of America Corporation,  
Additional Defendant.  
-----X

Defendant-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 4, 2007 (Appeal No. 9931),

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 affirmed 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 May 6, 2008.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzairelli  
Milton W. Williams  
John W. Sweeny, Jr., Justices.

-----X  
In the Matter of the Petition of

Proskauer Rose LLP,  
Petitioners,

To review a decision of the Tax Appeals Tribunal pursuant to §171.b of the New York City Charter and Article 78 of the CPLR,

M-1485  
Index No. 103381/08

-against-

Tax Appeals Tribunal of the City of New York,

Martha E. Stark, in her official capacity as Finance Commissioner of the City of New York,

-and-

The City of New York  
Department of Finance,  
Respondents.

-----X

An Article 78 proceeding having been commenced in the Supreme Court, New York County, by notice of petition filed on March 5, 2008, to review determination of respondent Tax Appeals Tribunal dated November 5, 2007,

And petitioner having moved to transfer said Article 78 proceeding to this Court from the Supreme Court,

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

It is ordered that the motion is granted.

ENTER:

A handwritten signature in black ink, appearing to be "J.W.L.", with a large, sweeping flourish underneath. The signature is written over the word "Clerk".

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 May 6, 2008.

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

-----X  
In the Matter of a Custody/Visitation  
Proceeding

James W., Sr.,  
Petitioner-Appellant,

-against-

M-1343  
Docket No. V-07919-20/06  
IDV No. 2002-402

Theresa D.,  
Respondent-Respondent.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Supreme Court, Bronx County, Integrated Domestic Violence Part, entered on or about August 14, 2007, and for assignment of counsel, a free copy of the transcript, 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 (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Kenneth Tuccillo, Esq., 385 Warburton Avenue, Hastings on Hudson, New York 10706, Telephone No. 914-439-4843 , as counsel for purposes of prosecuting the appeal; (2) **directing the Clerk of said Family Court to have transcribed within 60 days of service of a copy of this order upon the Clerk**, the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> **within 60 days of service of a copy of this order upon the Clerk;**

---

<sup>1</sup>Service of appellant's brief upon respondent(s) shall include assigned counsel's copy of the transcript.

(3) permitting appellant to dispense with any fee for transferring the record from the Family Court to this Court; and (4) enlarging the time to perfect this appeal until 120 days from the date of filing of the record. **Assigned counsel is directed to immediately subpoena the record from the Family Court and to serve a copy of this order upon the Clerk of the Family Court.**

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 May 6, 2008.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
David B. Saxe  
David Friedman  
James M. Catterson, Justices.

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

-against-

M-1708  
Ind. No. 1342/07

Joaquin Bustamante,  
Defendant-Appellant.  
-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about September 7, 2007, 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 Fl., 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 May 6, 2008.

PRESENT - Hon. Angela M. Mazzaelli, Justice Presiding,  
Richard T. Andrias  
David B. Saxe  
Luis A. Gonzalez  
John W. Sweeny, Jr., Justices.

-----X  
Sara Kinberg,  
Plaintiff-Appellant,

-against-

M-1748  
Index No. 12723/05

Yoram Kinberg,  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, leave to appeal to the Court of Appeals from the decision and order of this Court entered on February 28, 2008 (Appeal No. 2917N - 2918N),

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 May 6, 2008.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz, Justices.

-----X  
Savannah T&T Co., Inc., et al.,

Plaintiffs-Respondents,

M-1674

-against-

Index No. 101876/04

Force One Express Inc., et al.,

Defendants-Appellants.  
-----X

Defendants-appellants 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 July 17, 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 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 May 6, 2008.

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

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

-against-

M-1691  
Ind. No. 6635/05

Richard Fernandez,  
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about February 16, 2007, 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 Fl., 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 May 6, 2008.

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

-----X  
The People of the State of New York  
ex rel. Aubrey Gibson,  
Petitioner-Appellant,

-against-

M-1735  
Index No. 75171/07

Warden, George Motchan Detention  
Center, etc., et al.,  
Respondents.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about January 10, 2008, which dismissed a habeas corpus proceeding, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for assignment of counsel,

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 on the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the Attorney General of the State of New York and files 10 reproduced copies of such brief, together with the original record, with this Court.

Pursuant to Section 35 of the Judiciary Law, Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for petitioner-appellant for purposes of the appeal. Counsel is directed to perfect the appeal in accordance with Rule 600.18 of the Rules of this Court.

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 May 6, 2008.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,  
Milton L. Williams  
John W. Sweeny, Jr.  
James M. McGuire, Justices.

-----X  
HSBC Guyerzeller Bank AG,  
Plaintiff-Appellant-Respondent,

-against-

Chascona N.V., et al.,  
Defendants,

M-6566  
Index No. 114705/03

CIBC Mellon Trust Company, et al.,  
Defendants-Respondents-Appellants,

Honorable Burton S. Sherman, etc.,  
Additional Defendant,

- - - - -  
Samuel Montagu & Co., Limited,  
Nonparty Respondent.

-----X

Defendants-respondents-appellants having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on July 26, 2007 (Appeal No. 8481),

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 May 6, 2008.

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

-----X  
In the Matter of the Application of  
David Rosin, M.D., in his Capacity as  
Director of Community Services of the  
City of New York,

M-1597  
Index No. 54/06

Petitioner-Respondent,

For an Order Authorizing an Additional  
Period of Assisted Outpatient Treatment  
for Rosalind Johnson,

Respondent-Appellant.  
-----X

Respondent-appellant having moved pro se for leave to prosecute, as a poor person, the appeal from the order and judgment (one paper) of the Supreme Court, Bronx County, entered on or about March 11, 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, without prejudice to respondent-appellant seeking further relief in the Supreme Court, Bronx County. Respondent-appellant is directed to Mental Hygiene Law Sec. 9.35.

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 May 6, 2008.

Present: Hon. David B. Saxe, Justice Presiding,  
Eugene Nardelli  
John T. Buckley  
James M. Catterson, Justices.

-----X  
The People of the State of New York  
ex rel. Guillermo Hernandez,

Petitioner-Appellant,

-against-

M-1706  
Index No. 75030/06

Warden, Rikers Island Correctional Facility and New York State Division of Parole,

Respondent-Respondent.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about December 8, 2006, which dismissed a habeas corpus proceeding,

And an order of this Court having been entered on March 29, 2007 (M-529), granting defendant leave to prosecute the appeal as a poor person and the assignment counsel on the appeal,

And petitioner having moved for an order withdrawing 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, the appeal is deemed withdrawn and the order of this Court entered March 29, 2007 (M-529) is herewith recalled and vacated.

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 May 6, 2008.

PRESENT - Hon. David B. Saxe, Justice Presiding,  
Eugene Nardelli  
John T. Buckley  
James M. Catterson, Justices.

-----X  
Kristen Summers, etc., et al.,  
Plaintiffs-Appellants,

-against-

M-1703  
Index No. 23460/01

Falguni Shah, M.D., et al.,  
Defendants-Respondents.  
-----X

Defendants-respondents having moved to dismiss the appeal taken from the order of the Supreme Court, Bronx County, entered on or about March 5, 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 May 6, 2008.

PRESENT - Hon. David Friedman, Justice Presiding,  
Eugene Nardelli  
John T. Buckley  
John W. Sweeny, Jr., Justices.

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

-against-

M-3015  
Ind. No. 2214/02

Patrick Smith,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on April 4, 2006 (Appeal No. 8209), unanimously modifying the judgment of the Supreme Court, Bronx County (Thomas Farber, J.), rendered on December 22, 2003,

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.

E N T E R:

  
Clerk.

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

BEFORE: Hon. Richard T. Andrias  
Justice of the Appellate Division

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

Respondent,

M-1698  
Ind. No. 1411/00


-against-

Marcus Brown,  
Defendant-Appellant.

-----X

I, Richard T. Andrias, a Justice of the Appellate Division, Supreme Court, First Department, do hereby certify that, upon the papers submitted in support of and in opposition to this application by the above-named appellant for a certificate pursuant to CPL 460.20 granting him leave to appeal to the Court of Appeals from the order (M-3490) of this Court, entered December 27, 2007, denying his petition for a writ of coram nobis, and it appearing that a similar application was previously made and is currently pending before Judge Carmen Beauchamp Ciparick of the Court of Appeals, appellant's application for permission to appeal is hereby dismissed (*see People v Liner*, 70 NY2d 945 [1988]).

Dated: April 29, 2008  
New York, New York

  
Justice of the Appellate Division

**ENTERED**

**MAY 06 2008**



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

BEFORE: Hon. David B. Saxe  
Justice of the Appellate Division

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

M-5049  
Ind. No. 1818/92

-against-

CERTIFICATE  
DENYING LEAVE

Michael Love

Defendant.

-----X

I, David B. Saxe, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant deemed to be 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, New York County, entered on or about August 2, 2007 is hereby denied.

  
\_\_\_\_\_  
Associate Justice

Dated: **MAY 01**, 2008  
New York, New York

ENTERED: **MAY 06 2008**

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

BEFORE: Hon. Dianne T. Renwick  
Justice of the Appellate Division

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

M- 1741  
Ind. No. 8891/98

-against-

CERTIFICATE  
DENYING LEAVE

Dennis Vetere,  
Defendant.

-----X

I, Dianne T. Renwick, 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, 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, New York County, entered on or about February 20, 2008, is hereby denied.



Hon. Dianne T. Renwick  
Associate Justice

Dated: April 30, 2008  
New York, New York

ENTERED: **MAY 06 2008**