

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 February 15, 2011.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Angela M. Mazzairelli
Richard T. Andrias
David B. Saxe, Justices.

-----X
Current Medical Directions, LLC,
Plaintiff-Respondent,

-against-

M-232X
Index No. 600941/06

Daniel Salomone,
Defendant-Appellant.

-----X
[and another action]
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about February 3, 2010 (mot. seq. no. 002),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" January 14, 2011, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 February 15, 2011.

Present - Hon. Luis A. Gonzalez, 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-309
Ind. No. 8704/99

Michael Verdel, also known as
Michael Verdal,

Defendant-Appellant.

-----X

An appeal having been taken from the order of **resentence** of the Supreme Court, New York County, entered on or about April 23, 2010,

Now, upon reading and filing the stipulation of the parties hereto, entered January 21, 2011, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 February 15, 2011.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Angela M. Mazzairelli
Richard T. Andrias
David B. Saxe, Justices.

-----X
Albert Fischer,

Plaintiff-Appellant,

-against-

M-47X
Index No. 603351/09

Simon Fischer and Bernard Fischer,

Defendants-Respondents.
-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 18, 2010 (mot. seq. no. 002),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" January 5, 2011, and upon the stipulation of discontinuance filed in Supreme Court, New York County, on December 23, 2010, and due deliberation having been had thereon,

It is ordered that the appeal and cross appeal are withdrawn in accordance with the aforesaid stipulations.

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 February 15, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
James M. Catterson
Rolando T. Acosta
Sallie Manzanet-Daniels, Justices.

-----X
Ramon Perez and Francia Rodriguez,
Plaintiffs-Respondents,

-against-

M-5854
Index No. 6779/02

Wendell Jordan,
Defendant,

Shirley Roberts,
Intervenor-Appellant.

-----X

Plaintiffs-respondents having moved for an order dismissing intervenor-appellant's appeal taken from the order and judgment (one paper) of the Supreme Court, Bronx County, entered on or about December 28, 2009,

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 to dismiss the appeal is granted unless the appeal is perfected on or before March 21, 2011 for the June 2011 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided plaintiffs-respondents serve a copy of this order upon the 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 February 15, 2011.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
John W. Sweeny, Jr.
Rolando T. Acosta
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Andrea Bentley,
Plaintiff-Appellant,

-against-

M-6091
Index No. 300024/07

All Seasons Services, Inc., et al.,
Defendants-Respondents.

-----X

Defendants-respondents having moved for dismissal of the appeal taken from the order of Civil Court, Bronx County, entered on or about October 29, 2009, for failure to timely perfect,

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 further proceedings in the Appellate Term, First Department.

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 February 15, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzarelli
Karla Moskowitz
Rolando T. Acosta
Nelson S. Román, Justices.

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

-against-

M-5960
Ind. No. 7198/99

John Brown,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of **resentence** of the Supreme Court, New York County, entered on or about November 24, 2010, 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 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 copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of **resentence**. 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 February 15, 2011.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzarelli
John W. Sweeny, Jr.
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----x

In the Matter of

Henry C., and
Isaiah C.,

Children Under 18 Years of Age Alleged
to be Neglected Pursuant to Article 10
of the Family Court Act.

- - - - -
Administration for Children's Services,
Petitioner-Respondent,

M-5704
Docket Nos. N14387-8/06

Henry C.,
Respondent-Appellant,

Tapitha C.,
Respondent.

- - - - -
Todd D. Kadish, Esq.,
Attorney for the Children.

-----x

An order of this Court having been entered on November 24, 2009 (M-4313), inter alia, granting respondent-appellant leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about April 20, 2009, and assigning George E. Reed, Esq. as counsel for purposes of prosecuting the appeal; and a further order of this Court entered on November 24, 2009 (M-4421), substituting Todd D. Kadish, Esq. as attorney for the children for purposes of responding to the appeal,

And respondent-appellant having moved for leave to prosecute, as a poor person, the appeals taken from orders of said Court entered on or about November 2, 2009, April 13, 2010 and October 14, 2010, respectively, and for consolidation of the four appeals herein,

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 poor person relief and the assignment of George E. Reed, Esq., as counsel on for prosecuting the appeal from the order entered on November 24, 2009 (M-4313) is extended to include the appeals from the orders entered on or about November 2, 2009, April 13, 2010 and October 14, 2010, respectively, the aforesaid appeals are consolidated, respondent-appellant may prosecute the consolidated appeals on the original record and 8 copies of one set of appellants's points, and it is,

Sua sponte ordered that the poor person relief and assignment of Todd D. Kalish, Esq., as counsel for the subject children for purposes of responding to the appeal from the order entered on November 24, 2009 (M-4421) is extended to include the appeals from the orders entered on or about November 2, 2009, April 13, 2010 and October 14, 2010, respectively, and it is further,

Ordered that the time in which to perfect the consolidated appeals is enlarged to on or before March 21, 2011 for the June 2011 Term, without prejudice to seek a further enlargement, if so advised.

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 February 15, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
John W. Sweeny, Jr.
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Carl Andrews & Associates, Inc.,
Petitioner-Appellant,

-against-

M-5849
Index No. 105396/10

Office of the Inspector General of the State of New York and Joseph Fisch, in his capacity as Inspector General of the State of New York,
Respondents-Respondents.
-----X

An order of this Court having been entered on November 30, 2010 (M-5241), granting a stay of enforcement of the order of the Supreme Court, New York County, entered on or about October 4, 2010, on condition the appeal be perfected for the May 2011 Term,

And petitioner having moved for leave to supplement the record on appeal in support of its motion for a stay with the inclusion of a certain newspaper article,

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, as academic.

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 February 15, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David B. Saxe
James M. Catterson
Rolando T. Acosta, Justices.

-----X
Virgen S.,

Petitioner,

-against-

Clint J.,

Respondent.
-----X

M-6144

Docket Nos. F106363/07
F10636-06
P10636-06
P10636-06/07

An order of this Court having been entered on November 9, 2010 (M-3748/M-4083), inter alia, dismissing respondent's appeal taken from the order of the Family Court, New York County, entered on or about May 29, 2009,

And respondent having moved for reargument of the aforesaid order of this Court entered on November 9, 2010 (M-3748/M-4083), 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 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 February 15, 2011.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
James M. Catterson
Rolando T. Acosta
Sallie Manzanet-Daniels, Justices.

-----X

Towne Partners, LLC,

Plaintiff-Respondent,

-against-

M-64

Index No. 100108/09

RJZM, LLC doing business as
All-Med & Rehab of New York,

Defendant-Appellant.

-----X

Plaintiff-respondent 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 9, 2010 (Appeal No. 3854),

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 February 15, 2011.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzairelli
Dianne T. Renwick
Leland G. DeGrasse, Justices.

-----X
Isidro Abascal,

Plaintiff-Appellant,

-against-

M-6188
Index No. 401171/06

The City of New York,

Defendant-Respondent.
-----X

Plaintiff-appellant having moved for reargument of the decision and order of this Court entered on November 30, 2010 (Appeal No. 3706),

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 February 15, 2011.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
John W. Sweeny, Jr.
Rolando T. Acosta
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Neil B. Hirschfeld,

Plaintiff-Respondent,

-against-

M-6299
Index No. 570385/09

Ivette De La Cruz,

Defendant-Appellant.

-----X

Plaintiff-respondent 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 August 13, 2010,

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 February 15, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzarelli
John W. Sweeny, Jr.
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Virginia M. Henneberry,
Plaintiff-Appellant, M-5671
M-5868
-against- Action No.1
Index No. 603827/07
Leon Baer Borstein, et al.,
Defendants-Respondents.

-----X
Virginia M. Henneberry,
Plaintiff-Appellant, Action No. 2
Index No. 600232/09
-against-
Leon Baer Borstein, et al.,
Defendants-Respondents.

-----X
Virginia M. Henneberry,
Plaintiff-Appellant, Action No. 3
Index No. 600357/10
-against-
Leon Baer Borstein, et al.,
Defendants-Respondents.

Appeals having been taken in each of the above-titled actions from orders of the Supreme Court, New York County, entered on or about January 15, 2010 in Action No. 1 (mot. seq. no. 002, 003), on or about January 20, 2010 in Action No. 2, and from the order and so-ordered transcript of said Court entered on or about October 25, 2010 and November 6, 2010 in Action No. 3, respectively,

And plaintiff-appellant having moved to enlarge the time in which to perfect the aforesaid appeals in Action No. 1 and Action No. 2, to consolidate all three appeals, or for alternative relief (M-5671),

And defendants-respondents having cross-moved to require plaintiff-appellant to incur the costs of preparing the record on appeal in all three appeals, and in the event that consolidation of plaintiff's appeals is granted, extending the page limit of the joint respondent's brief (M-5868),

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 only to the extent of enlarging plaintiff's time in which to perfect the aforesaid appeals in Action No. 1 and Action No. 2 to the June 2011 Term, and directing the Clerk to calendar said appeals for hearing together in said June 2011 Term, and the motion is otherwise denied. The cross 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 February 15, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David B. Saxe
James M. Catterson
Rolando T. Acosta, Justices.

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

Samuel Farrell, Jr.,
Petitioner,

M-6139

For a Judgment under Article 78 of
the Civil Practice law and Rules,

Index No. 401973/10

-against-

Rafael Cistero, et al.,
Respondents.

-----X

An Article 78 proceeding to review a determination of respondents having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about October 26, 2010,

And respondent Riverside Park Community II LLC having moved to vacate "any and all stays" or, in the alternative, to direct respondent, Department of Housing Preservation and Development, to pay use and occupancy for petitioner tenant pendent lite or, in the alternative, for other 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 vacating the stay of proceedings in the matter *Riverside Park Community LLC, et al. v Samuel Farrell, Jr.*, in Civil Court, New York County (L&T Index No. 73122/09) granted by an order of

a Justice of the Supreme Court, New York County, on or about August 4, 2010, unless petitioner tenant perfects the proceedings on or before March 21, 2011 for the June 2011 Term of this Court and commences payment of monthly rent in the amount of \$2,131 within seven (7) days of service of this order. Upon failure to so perfect, an order vacating the stays may be entered ex parte, provided that respondent serves a copy of this order upon petitioner within 10 days after the date of entry hereof. 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 February 15, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzairelli
David Friedman
Dianne T. Renwick
Leland G. DeGrasse, Justices.

-----X
RP Brennan General Contractors &
Builders, Inc.,
Plaintiff-Respondent,

-against-

M-6304
Index No. 105124/09

Plaza Accessory Owner LP,
Defendant-Appellant,

-and-

Argonaut Insurance Company, et al.,
Defendants.

-----X

Plaintiff-respondent having moved for dismissal of the appeal taken from an order of the Supreme Court, New York County, entered on or about January 22, 2010,

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.

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 February 15, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzairelli
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

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

Respondent,

-against-

M-6124
Ind. No. 4355/00

Mohammed Wahid,

Defendant-Appellant.
-----X

Respondent having moved for dismissal of the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about June 7, 2002,

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.

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 February 15, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzaelli
David Friedman
Dianne T. Renwick
Leland G. DeGrasse, Justices.

-----X
Sixto Ramirez,
Plaintiff-Appellant,

-against-

M-6205
Index No. 403136/09

National Cooperative Bank (NCB),
Defendant-Respondent,

-and-

Giuffre Hyundai Ltd., et al.,
Defendants.

-----X

Plaintiff-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about August 3, 2010, and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for other relief,

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

It is ordered that said 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 serve one copy of such brief upon the attorney for respondent and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record.

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 February 15, 2011.

Present: Hon. Peter Tom, Justice Presiding,
David Friedman
James M. Catterson
Diane T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
In Re: New York City
Asbestos Litigation

Shelly Bernard,
Plaintiff-Respondent,

M-5907A
Index No. 107211/08

-against-

Brookfield Properties Corp., et al.,
Defendants,

Colgate-Palmolive Company,
Defendant-Appellant.

-----X
Lori Konopka-Sauer and Richard Konopka,
as Executors of the Estate of Karen
Tedrick,
Plaintiffs-Respondents,

Index No. 190078/08

-against-

Colgate-Palmolive Company,
Defendant-Appellant.

-----X

Appeals having been taken by defendant, Colgate-Palmolive Company, from the order of the Supreme Court, New York County, entered on or about July 9, 2010 (mot. seq. no. 004) and, under Index No. 190078/08 and from orders of the same court and justice entered on or about October 20, 2010 (mot. seq. no. 015) and, on or about November 23, 2010 (mot. seq. no. 018) under Index No. 107211/08,

And defendant Colgate-Palmolive Company having moved for consolidation of the aforesaid 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, the aforesaid appeals are consolidated, and appellant is permitted to prosecute the consolidated appeals upon 9 copies of one record and of one set of appellant's points covering the appeals. The parties attention is directed to 22 NYCRR 600.11. The order of this Court entered on January 20, 2011 (M-5907) is hereby 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 February 15, 2011.

Present: Hon. Peter Tom, Justice Presiding,
David B. Saxe
Leland G. DeGrasse
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Voom HD Holdings LLC,
Plaintiff-Respondent,

-against-

M-104
Index No. 600292/08

Echostar Satellite L.L.C., now known
as DISH Network L.L.C.,
Defendant-Appellant.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 9, 2010 (mot. seq. no. 002),

And defendant-appellant having moved for an order staying trial pending hearing and determination of the aforesaid appeal, and for relief related therein,

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 appeal is perfected on or before March 21, 2011 for the June 2011 Term. Upon failure to so perfect, an order vacating the stay(s) may be entered ex parte, provided that plaintiff-respondent serves a copy of this order upon defendant-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 February 15, 2011.

PRESENT: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
Dianne T. Renwick
Nelson S. Román, Justices.

-----X
Ronald Bruce Posner,
Plaintiff-Respondent,

-against-

M-6230
Index No. 103496/09

Russell T. Lewis, et al.,
Defendants-Appellants.
-----X

Defendants-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 9, 2010 (Appeal No. 2429),

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, insofar as it seeks reargument is denied, so much of the motion seeking leave to appeal to the Court of Appeals 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 Supreme Court, as affirmed by the this Court, properly made?"

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

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 February 15, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
John W. Sweeny, Jr.
Helen E. Freedman, Justices.

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

Respondent,

-against-

M-5870
Ind. No. 2251/02

Freddie Jackson,

Defendant-Appellant.
-----X

A decision and order of this Court having been entered on October 21, 2004 (Appeal No. 4386), unanimously affirming a judgment of the Supreme Court, New York County (Herbert Altman, J. at hearing; Bonnie Wittner, J. at jury trial and sentence), rendered on March 7, 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 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 said application 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 February 15, 2011.

PRESENT: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzarelli
David Friedman
Dianne T. Renwick
Leland G. DeGrasse, Justices.

-----X
Daniel Hernandez and Rosalinda
Pichardo,

Plaintiffs-Respondents-Respondents,

-against-

M-6083

M-6189

M-6251

Index No. 125067/00

Ten Ten Company, also known as
1010 Company, et al.,
Defendants-Respondents,

Prudential Securities Incorporated,
Defendant-Respondent-Appellant.

-----X
The 1010 Company, L.P., etc.,

Third-Party Plaintiff-Respondent-
Appellant,

-against-

Third-Party

Index No. 590928/01

Prudential Securities Incorporated,
Third-Party Defendant-Respondent-
Appellant.

-----X
Schmergel Construction Corp.,

Second Third-Party Plaintiff-
Respondent-Respondent,

-against-

Second Third-Party

Index No. 459038/04

Roland's Electric,
Second Third-Party Defendant-
Appellant-Respondent.

-----X

Second third-party defendant-appellant-respondent, Roland's Electric, having moved (M-6083) for an enlargement of time in which to perfect the appeals taken from the order of the Supreme Court, New York County, entered on or about January 6, 2010 (mot. seq. nos. 020, 021, 022, 023),

And defendant/third-party defendant-respondent-appellant, Prudential Securities Incorporated, having separately moved (M-6189) for the aforesaid relief,

And defendant/respondent third-party plaintiff-respondent-appellant, Ten Ten Company, also known as 1010 Company, having separately moved (M-6251) for the same 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 motions are granted to the extent of enlarging the time in which to perfect the appeal and cross appeals to on or before March 21, 2011 for the June 2011 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 February 15, 2011.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
David Friedman
John W. Sweeny, Jr.
Karla Moskowitz, Justices.

-----X
Aries Financial, LLC,
Plaintiff-Appellant,

-against-

2729 Claflin Avenue, LLC and
Wanda Burt,
Defendants-Respondents,

M-6066
Index No. 381809/08

-and-

Bronx Supreme Court, et al.,
Defendants.

-----X

Defendants-respondents having moved for dismissal of the appeal taken from an order of the Supreme Court, Bronx County, entered on or about February 2, 2010,

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.

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 February 15, 2011.

Present - Hon. Angela M. Mazzairelli, Justice Presiding,
Richard T. Andrias
David Friedman
John W. Sweeny, Jr.
Karla Moskowitz, Justices.

-----X
Augustin Rivera,

Plaintiff-Appellant,

-against-

M-6207
Index No. 305934/08

DYA, Inc., et al.,

Defendants-Respondents.
-----X

Defendants-respondents having moved for dismissal of the appeal taken from an order of the Supreme Court, Bronx County, entered on or about January 26, 2010,

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 February 15, 2011.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
Karla Moskowitz
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Carol Delgado,
Plaintiff-Appellant,

For a Judgment, etc.,

M-6141

M-46

-against-

Index No. 401221/09

New York City Housing Authority,
Defendant-Respondent.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 6, 2010,

And defendant-respondent having moved for an order dismissing plaintiff-appellant's appeal (M-6141),

And plaintiff-appellant, pro se, having cross-moved for leave to prosecute the aforesaid appeal as a poor person, for an enlargement of time in which to perfect the appeal, and for a stay of eviction pending hearing and determination of said appeal (M-46),

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 plaintiff-appellant's cross motion (M-46) is granted to the extent that plaintiff is permitted to perfect the appeal upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the attorney for defendant-respondent and files 8 copies of such brief, together with the original record, with this Court. Plaintiff-appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record,

The cross motion, to the extent a stay of eviction is sought, is granted on condition that the appeal is perfected on or before March 21, 2011 for the June 2011 Term. Defendant-respondent's motion (M-6141) is granted unless the appeal is so perfected for said June 2011 Term. Upon failure to so perfect, an order dismissing the appeal and vacating the stay may be entered ex parte, provided defendant-respondent serves a copy of this order upon the plaintiff-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 February 15, 2011.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
David Friedman
John W. Sweeny, Jr.
Karla Moskowitz, Justices.

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

-against-

M-6238
Ind. No. 29/00

Ralph Alicea,
Defendant-Appellant.

-----x
An order of this Court having been entered on April 20, 2004 (M-1030A), inter alia, 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 February 20, 2004, and assigning Richard M. Greenberg, Esq., as counsel for purposes of prosecuting the appeal,

And defendant having moved for an order relieving assigning counsel Richard M. Greenberg, Esq., and substituting the Office of Leslie S. Nizin, Esq., as counsel for purposes of prosecuting the appeal, for leave to withdraw the appellate brief previously submitted by assigned counsel, for an enlargement of time in which to perfect the appeal, and for the continuation of the poor person relief previously granted by the order of this Court on April 20, 2004 (M-1030A),

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 June 2011 Term. The poor person relief granted by the order of this Court entered on April 20, 2004 (M-1030A), is hereby vacated, and the appellate brief previously submitted on behalf of defendant-appellant is withdrawn. The motion, to the extent it seeks substitution of retained counsel, is denied, as unnecessary.

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 February 15, 2011.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Diane T. Renwick
Leland G. DeGrasse, Justices.

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

-against-

M-5869
Ind. No. 3944/08

Antonio Martinez,
Defendant-Appellant.

-----X

An order of this Court having been entered on October 26, 2010 (M-4440), inter alia, granting defendant's motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about April 5, 2010, under Indictment No. 3944/08, and assigning counsel therefor,

And defendant-appellant having moved for an order directing the Clerk of the Supreme Court, Bronx County, to promptly have transcribed the minutes of all proceedings not yet transcribed to be included in the record on appeal and to provide a copy of said proceedings to defendant's counsel,

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

It is ordered that said motion is granted to the extent of directing the Clerk of Supreme Court, Bronx County, to have transcribed all minutes not yet transcribed for inclusion in the record on appeal, within 30 days from the date of service upon the Clerk of a copy of this order, which counsel is directed to serve upon the Clerk and the individual court reporter(s) with 10 days from the date of entry thereof.

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 February 15, 2011.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
James M. Catterson
James M. McGuire, Justices.

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

Respondent,

-against-

M-4361
Ind. No. 2282/04

Robert Haigler,

Defendant-Appellant.
-----X

A decision and order of this Court having been entered on October 4, 2007 [Corrected Order January 25, 2008] (Appeal Nos. 1605-1606), unanimously affirming a judgment of the Supreme Court, New York County (Joan Sudolnik, J.), rendered on March 16, 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.

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 February 15, 2011.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Rolando T. Acosta
Nelson S. Román, Justices.

-----X
Mt. McKinley Insurance Company,
etc., et al.,
Plaintiffs,

-against-

Corning Incorporated,
Defendant-Appellant,

M-5785
Index No. 602454/02

AIU Insurance Company, et al.,
Defendants,

Century Indemnity Company, etc.,
et al.,
Defendants-Respondents.

-----X

Defendant-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on October 12, 2010 (Appeal No. 3343N),

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, to the extent it seeks leave to appeal to the Court of Appeals, is denied. Sua sponte, reargument is granted and, upon reargument, the decision and order of this Court entered on October 12, 2010 (Appeal No. 3343N) is recalled and vacated and a new decision and order is substituted therefor. (See Appeal No. 3343N, 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 February 15, 2011.

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

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

-against-

M-6111
Ind. No. 6676/99

Chad Rodriguez,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, Bronx County, rendered on or about April 22, 2002,

And defendant having moved pro se to purchase a transcript of his plea and sentence minutes,

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, as unnecessary. Defendant may direct his request to the appropriate Court Reporter, Supreme Court, Bronx County.

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 February 15, 2011.

Present: Hon. Richard T. Andrias, Justice Presiding,
David Friedman
James M. Catterson
Diane T. Renwick
Leland G. DeGrasse, Justices.

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

Respondent,

-against-

M-5917
Ind. No. 50/08

Robert McCoy,

Defendant-Appellant.
-----X

Defendant-appellant having moved for leave to file a pro se supplemental brief in connection with the appeal from a judgment of the Supreme Court, New York County, rendered on or about November 5, 2008, 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 a statement of the specific issues defendant seeks to raise in the supplemental pro se brief.

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 February 15, 2011.

Present - Hon. Richard T. Andrias, Justice Presiding,
Karla Moskowitz
Leland G. DeGrasse
Nelson S. Román, Justices.

-----X
In re Barbara Meacham, etc.,

Petitioner-Appellant,

-against-

New York City Health & Hospitals Corporation,

Respondent-Respondent.
-----X

M-5860
Index Nos. 103229/09
25879/03

Respondent-respondent having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on October 26, 2010 (Appeal Nos. 3472-3472A),

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 February 15, 2011.

Present - Hon. David B. Saxe, Justice Presiding,
David Friedman
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Gary Meade,

Plaintiff-Appellant,

-against-

M-4801
Index No. 103585/08

OTA Hotel Owner LP, doing business as
On the Ave Hotel, 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 August 24, 2010 (Appeal No. 2755),

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Pollack, Pollack, Isaac & De Cicco (Brian J. Isaac, of counsel) dated November 30, 2010, and due deliberation having been had thereon,

It is ordered that the motion is deemed withdrawn in accordance with the aforesaid correspondence, the underlying action having been settled.

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 February 15, 2011.

Present - Hon. David B. Saxe, Justice Presiding,
David Friedman
James M. Catterson
Rolando T. Acosta
Rosalyn H. Richter, Justices.

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

-against-

M-5934
Ind. No. 1686/06

Malik Bryson,
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 December 16, 2008, for leave to have the appeal heard on the original record and upon a reproduced appellant's 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 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 serve one copy of such brief upon the District Attorney of said county and file copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of 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.

Defendant-appellant's time in which to perfect the appeal is hereby enlarged to the September 2011 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 February 15, 2011.

Present - Hon. David B. Saxe, Justice Presiding,
David Friedman
Karla Moskowitz
Helen E. Freedman
Nelson S. Román, Justices.

-----X

In the Matter of the Application of
John Covington,
Petitioner-Appellant,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

M-6037
Ind. No. 402695/09

Sgt. James Russo, P.O. Jonathan
David,
Respondents-Respondents.

-----X

Defendant having renewed the motion for leave to prosecute, as a poor person, the appeal from an order and judgment (one paper) of the Supreme Court, New York County, entered on or about June 1, 2010, 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.

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 February 15, 2011.

PRESENT: Hon. David B. Saxe, Justice Presiding,
Karla Moskowitz
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Maria Padilla,

Plaintiff-Appellant,

-against-

M-6023
Index No. 18627/06

The Department of Education of the City of New York, et al.,

Defendants-Respondents,

-----X

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 March 18, 2010,

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 June 2011 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 February 15, 2011.

Present - Hon. David Friedman, Justice Presiding,
Karla Moskowitz
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

-----X
John Lombardo,

Plaintiff-Appellant,

-against-

Park Tower Management Ltd.,

Defendant-Respondent.
-----X

M-4800
Index No. 110349/06

Plaintiff-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on August 31, 2010 (Appeal No. 2955),

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Pollack, Pollack, Isaac & De Cicco (Brian J. Isaac, of counsel) dated November 30, 2010, and due deliberation having been had thereon,

It is ordered that the motion is deemed withdrawn in accordance with the aforesaid correspondence, the underlying action having been settled.

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 February 15, 2011.

Present: Hon. John W. Sweeny, Jr., Justice Presiding,
Karla Moskowitz
Leland G. DeGrasse
Helen E. Freedman
Rosalyn H. Richter, Justices.

-----X
Shamarie Young, an infant, by his
mother and natural guardian, Lydia
Griffith and Lydia Griffith,
individually,
Plaintiffs-Respondents,

-against-

M-58
Index No. 24749/05

New York City Health and Hospitals
Corporation (Lincoln Medical Center),
Defendant-Appellant,

St. Luke's Medical Center,
Defendant.

-----X

An appeal having been taken from the orders of the Supreme Court, Bronx County, entered on or about January 11, 2010, February 8, 2010 and an appeal having been taken from the order of the same Court entered on or about December 13, 2010,

And defendant-appellant having moved for consolidation of the aforesaid appeals and for an enlargement of time in which to perfect the appeal from the orders of said Court entered on or about January 11, 2010 and February 8, 2010,

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, to the extent it seeks an enlargement of time in which to perfect the appeal from the orders entered on January 11, 2010 and February 8, 2010, is granted to the June 2011 Term, and said appeals are consolidated with the appeal from the order entered on December 13, 2010. Defendant-appellant is permitted to perfect the consolidated appeals upon 9 copies of one record and of one set of appellant's points covering the appeals on or before March 21, 2011 for the June 2011 Term. The parties' attention is directed to 22 NYCRR 600.11.

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 February 15, 2011.

Present: Hon. John W. Sweeny, Jr., Justice Presiding,
Karla Moskowitz
Leland G. DeGrasse
Helen E. Freedman
Rosalyn H. Richter, Justices.

-----X
New York City Campaign Finance Board,
Plaintiff-Respondent,

-against-

M-6273
Index No. 401380/09

Robby Mahadeo,
Defendant,

Ray L. Trotman, as Treasurer of
Dr. Robby for the City Council and
Dr. Robby for City Council,
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 9, 2010 (mot. seq. nos. 003 and 004),

And defendant-appellant Ray L. Trotman having moved for a stay of enforcement of the aforesaid order of the Supreme Court entered on or about November 9, 2010,

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

Ordered that the notice of appeal is deemed to specify the judgment of the Supreme Court, New York County, entered pursuant to the aforesaid order on or about November 23, 2010 (CPLR 5501[c]), and defendant movant's motion is granted to the extent of staying enforcement of said judgment against defendant-appellant Ray L. Trotman only, on condition that defendant Trotman perfects his appeal on or before March 21, 2011 for the June 2011 Term, and the motion is otherwise denied.

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-4226
Ind. No. 2655/86

-against-

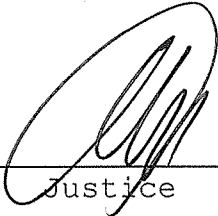
CERTIFICATE
DENYING LEAVE

Augustine Cruz,

Defendant.

-----X

I, Angela M. Mazzarelli, 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, Bronx County (Cassandra M. Mullen, J.), entered on or about July 6, 2010, is hereby denied.



Justice

Dated: New York, New York
February 9, 2011

ENTERED FEB 15 2011

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

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

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

M-5697
Ind. No. 1563/85

-against-

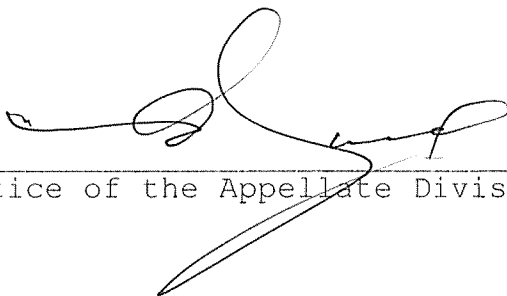
Alfred Charlemagne,

CERTIFICATE
DENYING LEAVE

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 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 orders of the Supreme Court, New York County, entered on or about March 22, 2010, and on or about July 22, 2010, is hereby denied.

Dated: New York, New York



Justice of the Appellate Division

ENTERED

FEB 15 2011

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

BEFORE: Hon. Sallie Manzanet-Daniels
Justice of the Appellate Division

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

M-4907
Ind. No. 5663/01

-against-

ORDER DENYING
LEAVE UPON
REARGUMENT

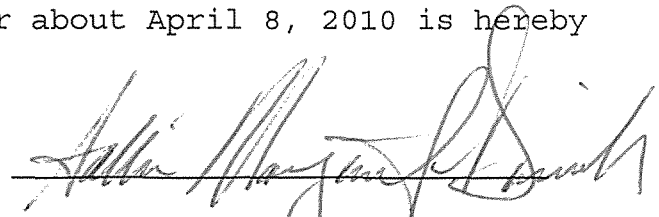
Jerry Frith,

Defendant.

-----X

I, Sallie Manzanet-Daniels, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for reargument of the order of a Justice of this Court (M-3160), entered on August 31, 2010, which denied his motion for a certificate pursuant to Criminal Procedure Law, sections 460.15, and no question of law or fact having been misapprehended or overlooked, permission to reargue the denial of leave to appeal from the order of the Supreme Court, New York County (Arlene D. Goldberg), entered on or about April 8, 2010 is hereby denied.

Dated: January 5, 2011
New York, New York


Associate Justice

Entered: FEB 15 2011