

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 December 15, 2016.

Present: Hon. David Friedman, Justice Presiding,  
Karla Moskowitz  
Troy K. Webber  
Marcy L. Kahn  
Ellen Gesmer, Justices.

-----X  
John Regan,  
Petitioner-Respondent,

For a Judgment Pursuant to Article 78 **M-5765**  
of the Civil Practice Law and Rules Index No. 104117/10

-against-

New York City Department of Buildings,  
et al.,  
Respondents-Appellants.

-----X

Respondents-appellants having moved for an enlargement of time to perfect the appeal taken from an order of the Supreme Court, New York County, entered on or about December 24, 2014, and to extend the stay pending determination of the appeal,

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

It is ordered that the motion is granted to the extent of enlarging the time to perfect the appeal to the April 2017 Term, with leave to seek further enlargements if necessary.

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 December 15, 2016.

PRESENT: Hon. David Friedman, Justice Presiding,  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Paul G. Feinman, Justices.

-----X  
David Molner,  
Plaintiff-Respondent,

-against-

M-5530  
Index No. 301261/12

Naomi Molner,  
Defendant-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 17, 2016,

And defendant-appellant having moved for a stay of that part of the aforesaid order which referred the financial dispute to a special referee to hear and report on certain issues, pending hearing and determination of said appeal,

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

It is ordered that the motion is denied.

ENTERED:

  
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 December 15, 2016.

PRESENT - Hon. John W. Sweeny, Jr., Justice Presiding,  
Rolando T. Acosta  
Richard T. Andrias  
Sallie Manzanet-Daniels  
Troy K. Webber, Justices.

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

-against-

M-4865  
Ind. No. 1013/12

Yvette Alexander,  
Defendant-Appellant.  
-----X

An appeal having been taken from the judgment of the  
Supreme Court, New York County, rendered on or about  
September 22, 2014, convicting defendant of second degree  
aggravated harassment,

And defendant-appellant having moved for an order enlarging  
the record on appeal to include, and directing the court  
reporters to transcribe, for the dates and by the court reporters  
specified in the moving papers, from court proceeding minutes,  
and other, unspecified documents,

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 for copies of transcripts and  
notes submitted to the Court during deliberations, is denied as  
unnecessary. The motion for unspecified Court materials is  
denied.

ENTERED:



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 December 15, 2016.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,  
Rolando T. Acosta  
Richard T. Andrias  
Sallie Manzanet-Daniels  
Troy K. Webber, Justices.

-----X

Thomas Summer, Sydney Licht & Elizabeth  
Logan Harris, Individually and on  
behalf of Ruckus 85 Corp.,  
Plaintiffs-Respondents-Appellants,

-against-

M-5126

M-5161

Yvette Georges Deeton,  
Defendant-Appellant-Respondent,

Index No. 114295/11

Charles Grooms & Lysiane Luong Grooms,  
Defendants-Respondents-Appellants,

Ruckus 85 Corp.,  
Defendant.

-----X

Defendant-appellant-respondent Yvette Georges Deeton having moved for an enlargement of time in which to perfect the appeal and cross appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about September 3, 2015 (M-5126),

And plaintiffs-respondents-appellants having cross-moved to dismiss Deeton's appeal and for related relief (M-5161),

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

Ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the April 2017 Term. The cross motion to dismiss the appeal is granted unless appellant perfects the appeal for said Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided that respondents serve a copy of this order upon appellant within 10 days from 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 December 15, 2016.

PRESENT: Hon. Rolando T. Acosta, Justice Presiding,  
Dianne T. Renwick  
Richard T. Andrias  
David B. Saxe  
Judith J. Gische, Justices.

-----X  
Matter of Dulce Figueroa,  
Plaintiff-Appellant,

-against-

M-5437  
Index No. 309801/09

Skillman Realty Co.,  
Defendant-Respondent.

-----X  
Skillman Realty Co.,  
Third-Party Plaintiff-Respondent,

-against-

Third-Party  
Index No. 84125/10

Brooks Brothers Inc., et al.,  
Third-Party Defendants.

-----X

Plaintiff-appellant having moved for an enlargement of time to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about September 23, 2015,

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 to perfect the appeal to the March 2017 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 December 15, 2016.

PRESENT - Hon. Rolando T. Acosta, Justice Presiding,  
Dianne T. Renwick  
David B. Saxe  
Rosalyn H. Richter  
Judith J. Gische, Justices.

-----X  
Deutsche Bank National Trust Company,  
solely in its capacity as Trustee for  
the Harborview Mortgage Loan Trust  
Series 2007-7,

Plaintiff-Appellant,

-against-

M-4745  
Index No. 653048/13

Flagstar Capital Markets Corporation,  
Defendant,

-and-

Quicken Loans, Inc.,  
Defendant-Respondent.

-----  
WMC Mortgage, LLC,  
Amicus Curiae.

-----X

Plaintiff-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on August 11, 2016 (Appeal No. 1492),

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 the Supreme Court, as affirmed by 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 December 15, 2016.

PRESENT: Hon. Rolando T. Acosta, Justice Presiding,  
Dianne T. Renwick  
Karla Moskowitz  
Paul G. Feinman  
Marcy L. Kahn, Justices.

-----X  
Ramon Rodriguez and Amalfis Rodriguez,  
Plaintiffs-Appellants,

-against-

M-4996  
Index No. 20331/12

Randall Frietzche, etc., et al.,  
Defendants-Respondents.  
-----X

Plaintiffs-appellants having moved for an enlargement of  
time to perfect the appeal from the order of the Supreme Court,  
Bronx County, entered on or about December 9, 2015,

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 to perfect the appeal to the April 2017 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 December 15, 2016.

PRESENT: Hon. Rolando T. Acosta, Justice Presiding,  
Dianne T. Renwick  
Karla Moskowitz  
Paul G. Feinman  
Marcy L. Kahn, Justices.

-----X  
Anthony Carino, by the Administratrix  
of his Estate, Catherine Carino, and  
Catherine Carino, Individually,  
Plaintiffs-Appellants,

-against-

M-4999  
Index No. 301937/09

Umangi Patel, M.D., et al.,  
Defendants-Respondents.  
-----X

Plaintiffs-appellants having moved for an enlargement of  
time to perfect the appeal from the order of the Supreme Court,  
Bronx County, entered on or about August 27, 2015,

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 to perfect the appeal to the April 2017 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 December 15, 2016.

PRESENT: Hon. Rolando T. Acosta, Justice Presiding,  
Dianne T. Renwick  
Karla Moskowitz  
Paul G. Feinman  
Marcy L. Kahn, Justices.

-----X  
Lev Shekhtman as the Administrator  
of the Estate of Marina Marmur and  
Lev Shekhtman, individually,  
Plaintiffs-Appellants,

-against-

M-5058  
Index No. 108004/09

Alla Savransky, M.D., et al.,  
Defendants-Respondents.  
-----X

Plaintiffs-appellants having moved for an enlargement of  
time to perfect the appeal from the order and judgment (one  
paper) of the Supreme Court, New York County, entered on or about  
September 18, 2015,

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 to perfect the appeal to the April 2017 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 December 15, 2016.

PRESENT - Hon. Rolando T. Acosta, Justice Presiding,  
Dianne T. Renwick  
Karla Moskowitz  
Paul G. Feinman  
Marcy L. Kahn, Justices.

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

-against- M-5040  
Ind. Nos. 1831/15  
Cindy Soto De Chapman, 2750N/15  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about January 4, 2016, for leave to prosecute the appeal as a poor person, upon the original record and upon 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 only to the extent of deeming the notice of appeal timely filed.

The motion, insofar as it seeks poor person relief is denied, with leave to renew upon defendant's submission of a notarized affidavit, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, Geoffrey Stewart, Esq., as well as the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2016.

PRESENT - Hon. Rolando T. Acosta, Justice Presiding,  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Troy K. Webber  
Marcy L. Kahn, Justices.

-----X  
Jonathan Syllman,  
Petitioner-Appellant,

-against-

M-5318  
Index No. 100226/15

NYC Department of Finance,  
Respondent-Respondent.  
-----X

Petitioner-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 October 14, 2015, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for an enlargement of time 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 denied, 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 December 15, 2016.

PRESENT: Hon. Karla Moskowitz, Justice Presiding,  
Barbara R. Kapnick  
Marcy L. Kahn  
Ellen Gesmer, Justices.

-----X

In the Matter of the Application of  
the State of New York,

Petitioner-Respondent,

**CONFIDENTIAL**

M-5052

For a Judgment Pursuant to Article 10  
of the Mental Hygiene Law,

Index No. 251370/13

-against-

Howard H.,

Respondent-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about July 11, 2016,

And respondent-appellant pro se having moved, pursuant to Mental Hygiene Law §10.13[c], for leave to prosecute the appeal as a poor person, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for the 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 upon 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 8 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.

The court reporter shall promptly make and file with the Supreme Court one transcript of the stenographic minutes of any proceedings in this matter, and 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.

Marvin Bernstein, Esq., Director of Mental Hygiene Legal Services, 41 Madison Avenue, 26<sup>th</sup> Floor, New York, NY 10010, Telephone No. (646) 386-5891, is assigned as counsel for purposes of prosecuting the appeal on respondent's behalf.

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 December 15, 2016.

PRESENT - Hon. Rosalyn H. Richter, Justice Presiding,  
Sallie Manzanet-Daniels  
Paul G. Feinman  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

-----X  
S.G., an Infant by her Grandmother and  
Legal Guardian, Ana Rodriguez,  
Plaintiff-Appellant,

-against-

M-5279  
Index No. 350631/08

Concilio De Iglesias Pentecostales  
Vision Para Hoy, Inc., et al.,  
Defendants-Respondents.  
-----X

Defendant-respondent Concilio De Iglesias Pentecostales  
Vision Para Hoy, Inc. having moved to dismiss the appeal from the  
judgment of the Supreme Court, Bronx County, entered on or about  
September 22, 2015,

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.

ENTERED:



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 December 15, 2016.

Present: Hon. Rosalyn H. Richter, Justice Presiding,  
Sallie Manzanet-Daniels  
Paul G. Feinman  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

-----X  
200 East 62<sup>nd</sup> Street Owner LLC,  
Plaintiff-Respondent,

-against-

**M-5723**

Index No. 158233/14

Kathryn Grace Jordan,  
Defendant-Appellant.

-----X

A purported appeal having been taken from a "final judgment" of the Supreme Court, New York County, entered on or about October 5, 2016,

And, defendant having moved to stay the aforesaid "final judgment", and to waive the processing fee for the appeal,

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

Ordered that the motion is 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 December 15, 2016.

Present: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

-----X  
In the Matter of a Paternity Proceeding  
Under Article 5 of the Family Court Act.

- - - - -  
Commissioner of Social Services,  
Assignee, on behalf of

Aranessa L.,  
Petitioner-Respondent,

**M-5244**  
Docket No. P-4961/15

-against-

Isaac C.,  
Respondent-Appellant.

- - - - -  
Geoffrey P. Berman, Esq.,  
Attorney for the Child.

-----X  
  
Vanessa J. Spears, Esq., Family Court attorney for the subject child, having moved on said child's behalf for leave to respond, as a poor person, to the appeal from the order of the Family Court, New York County, entered on or about March 10, 2016, 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, Geoffrey P. Berman, Esq., 2005 Palmer Avenue, Suite #176, Larchmont, New York 10538, Telephone No. (914) 419-8407, as counsel for purposes of responding to the

appeal on said child's behalf; (2) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for respondent-appellant and 8 copies thereof are filed with 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 December 15, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Troy K. Webber, Justices.

-----X  
Maria Luz Garcia Huidobro,  
Plaintiff-Respondent,

-against-

M-4394  
Index No. 312392/15

Pablo Duran Steinman,  
Defendant-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 31, 2016

And defendant-appellant having moved for an order staying all proceedings 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 granted to the extent of staying the order insofar as it awards plaintiff any monthly amount for maintenance in excess of \$4,500, and staying payment of arrears that exceed an adjustment reflecting retroactive monthly maintenance in excess of \$4,500. 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 December 15, 2016.

PRESENT - Hon. Peter Tom,  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta,

Justice Presiding,  
  
Justices.

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

-against-

M-3740  
Ind. No. 2179/99

Vincent Warren,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on December 9, 2003 (Appeal No. 2401), unanimously affirming a judgment of the Supreme Court, Bronx County (Lawrence Tonetti, J.), rendered on April 18, 2001,

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

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

It is ordered that said application is denied.

ENTER:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2016.

Present: Hon. Peter Tom, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

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

-against-

**M-4730**

Ind. Nos. 1163/74  
428/74

James Melvin Lee,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on May 4, 1978 (Appeal No. 2466), unanimously modifying the judgment of the Supreme Court, New York County (Davis, J.), rendered on November 30, 1976, to the extent of dismissing one count of the indictment, and otherwise affirming said judgment

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 in its entirety.

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 December 15, 2016.

PRESENT - Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
Rolando T. Acosta  
Richard T. Andrias  
Karla Moskowitz, Justices.

-----X

Carlos Rodriguez,  
Plaintiff-Appellant-Respondent,

-against-

M-4639  
Index No. 109444/11

City of New York,  
Defendant-Respondent-Appellant.

-----X

Plaintiff-appellant-respondent having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on September 1, 2016 (Appeal No. 16336-37N),

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 Supreme Court, as affirmed by 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. (See M-5406, 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 December 15, 2016.

PRESENT - Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
Rolando T. Acosta  
Richard T. Andrias  
Karla Moskowitz, Justices.

-----X  
Carlos Rodriguez,  
Plaintiff-Appellant-Respondent,

-against-

M-5406  
Index No. 109444/11

City of New York,  
Defendant-Respondent-Appellant.  
-----X

Defendant-respondent-appellant having cross-moved for leave to appeal to the Court of Appeals on the issue of production of plaintiff's tax records, from the decision and order of this Court entered on September 1, 2016 (Appeal No. 16336-37N),

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

It is ordered that the motion is denied. (See M-4639, 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 December 15, 2016.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Rolando T. Acosta  
Dianne T. Renwick  
Richard T. Andrias, Justices.

-----X  
Miriam Aristy-Farer, et al.,  
Plaintiffs-Respondents,

-against-

The State of New York, et al.,  
Defendants-Appellants.

M-5342  
M-5346  
Index Nos. 100274/13  
650450/14

-----  
New Yorkers for Students' Educational  
Rights ("NYSER"), et al.,  
Plaintiffs-Respondents,

-against-

The State of New York, et al.,  
Defendants-Appellants.

-----  
New Yorkers for Students' Educational  
Rights ("NYSER"), et al.,  
Plaintiffs,

City of Yonkers,  
Intervenor-Plaintiff-Respondent,

-against-

The State of New York, et al.,  
Defendants-Appellants.

-----X

Defendants-appellants having moved by separate motions (M-5342/M-5346) for leave to appeal to the Court of Appeals from the decision and order of this Court entered on September 8, 2016 (Appeal No. 529-530-531N),

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



It is ordered that the motions are 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 the Supreme Court, as modified by 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.

ENTERED:

A handwritten signature in black ink, appearing to read "Susan R. Jones", written in a cursive style.

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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 December 15, 2016.

PRESENT - Hon: Peter Tom, Justice Presiding,  
Rolando T. Acosta  
Richard T. Andrias  
Karla Moskowitz  
Marcy L. Kahn, Justices.

-----X

Samaad Bishop,  
Plaintiff-Appellant,

-against-

M-5398

M-5525

Katz Delicatessen of Houston Street,  
Inc., et al.,  
Defendants-Respondents.

Index No. 251419/13

-----X

Appeals having been taken from the orders of the Supreme Court, Bronx County, entered on or about March 25, 2015, August 17, 2015, September 17, 2015, and January 15, 2016, respectively,

And plaintiff-appellant having moved for an order consolidating the four appeals, and for an enlargement of time to perfect the appeal from the order entered March 25, 2015 (M-5525),

And defendants-respondents having cross-moved for an order dismissing the appeal from said Court entered on or about March 25, 2015 (M-5398),

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 portion of the motion for consolidation of the four appeals and an enlargement of time to perfect the appeal from the March 25, 2015 order is denied (M-5525). The cross motion is granted to the extent of dismissing the appeal from the order of said Court entered on or about March 25, 2015. Sua sponte, the appeals from the orders entered on or about August 17, 2015, September 17, 2015 are dismissed for failure to timely prosecute same.

The time to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about January 15, 2016 is enlarged to the April 2017 Term, with no further enlargements to be granted (M-5525).

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 December 15, 2016.

PRESENT - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Rosalyn H. Richter  
Judith J. Gische  
Troy K. Webber, Justices.

-----X  
NRT New York LLC, doing business as  
The Corcoran Group,  
Plaintiff-Appellant,

-against-

M-5208  
Index No. 154415/15

Nancy Sale Frey Johnson,  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for reargument of, or in  
the alternative, for leave to appeal to the Court of Appeals,  
from the decision and order of this Court, entered on  
September 15, 2016 (Appeal No. 1200),

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 December 15, 2016.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rosalyn H. Richter, Justices.

-----X

In Re: New York City Asbestos Litigation:  
Ivana Peraica, etc., et al.,  
Plaintiffs-Respondents,

-against-

**M-5717**

Index No. 190339/11

A.O. Smith Water Products Co.,  
et al.,  
Defendants,

Crane Co.,  
Defendant-Appellant.

-----X

Defendant-appellant, Crane Co., having moved for  
reargument of, or in the alternative, for leave to appeal to the  
Court of Appeals, from the decision and order of this Court,  
entered on October 6, 2016 (Appeal Nos. 13469-13470),

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 December 15, 2016.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Paul G. Feinman, Justices.

-----X  
Latipac Corp.,  
Plaintiff-Appellant-Respondent,

-against-

M-5640  
Index No. 101213/09

BHM Realty, LLC and Greenblatt &  
Agulnick, P.C.,  
Defendants-Respondents-Appellants.

-----X

An appeal and a cross-appeal having been taken from an order of the Supreme Court, New York County, entered on or about April 27, 2015, and said appeal having been perfected,

And defendants having moved to dismiss plaintiff's appeal or in the alternative for an enlargement of time to submit a respondents brief,

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 is granted to the extent of adjourning the perfected appeal to the March 2017 Term. Defendants are directed to perfect their cross-appeal for said 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 December 15, 2016.

PRESENT: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
David B. Saxe  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

-----X

Dian Kui Su, Qing Mei Zhao, Chao Qiong  
Hu, Zai Sheng Zheng and Judy D.J. Liao,  
individually and suing derivatively on  
behalf of Quality Lumber & Building  
Supplies, Inc. and Brilliant Prospects  
Realty, Inc.,

Plaintiffs-Appellants,

M-5439

Index No.601752/08

-against-

Sing Ming Chao, et al.,  
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about September 19, 2016,

And plaintiffs-appellants having moved to stay cancellation of notice(s) of pendency filed with the Queens County Clerk in this matter, pending hearing and determination of the appeal taken from the aforesaid order,

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:



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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 December 15, 2016.

PRESENT - Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Troy K. Webber  
Ellen Gesmer, Justices.

-----X  
21<sup>st</sup> Century Diamond, LLC,  
Plaintiff,

-against-

M-5662  
Index No. 650331/09

Allfield Trading, LLC, et al.,  
Defendants.

-----  
Allfield Trading, LLC, et al.,  
Third-Party Plaintiffs-Respondents,

-against-

Exelco North America, Inc., et al.,  
Third-Party Defendants-Appellants,

Doe Corporations 1-100, et al.,  
Third-Party Defendants.

-----  
Sterling Jewelers, Inc.,  
Nonparty Appellant.

-----X  
Third-party plaintiffs-respondents 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 September 29, 2016 (Appeal No. 1455N),

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 December 15, 2016.

PRESENT - Hon. David Friedman,  
Richard T. Andrias  
Karla Moskowitz  
Judith J. Gische  
Ellen Gesmer,

Justice Presiding,

Justices.

-----X

Patrolmen's Benevolent Association  
of the State of New York, Inc., on  
behalf of itself and all Police  
Officers,

Plaintiff-Appellant,

M-4720

Index No. 652620/16

-against-

The City of New York, and the New York  
City Office of Labor Relations,  
Defendants-Respondents.

-----X

The above-named plaintiff-appellant, in connection with the appeal taken from the order of the Supreme Court, New York County, entered on or about September 12, 2016, having moved for an order in the nature of a preliminary appellate injunction pursuant to CPLR 5518 enjoining defendants from implementing changes to the contractual health benefits provided to NYPD officers, 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 December 15, 2016.

PRESENT : Hon. David Friedman, Justice Presiding,  
Richard T. Andrias  
Karla Moskowitz  
Judith J. Gische  
Ellen Gesmer, Justices.

-----X  
In Re: Part 60 RMBS Put-Back Litigation Index No. 777000/15  
-----X

Specialty Underwriting & Residential  
Finance Trust, Series 2007-AB1 (Surf  
2007-AB1), by U.S. Bank National  
Association, Solely in its Capacity as  
Trustee,  
Plaintiff-Respondent,

-against-

M-5029  
Index No. 651388/14

Merrill Lynch Mortgage Lending, Inc.,  
and Merrill Lynch Mortgage Investors,  
Inc.,  
Defendants-Appellants.

-----X  
Specialty Underwriting & Residential  
Finance Trust, Series 2006-AB3 (Surf  
2006-AB3), by U.S. Bank National  
Association, Solely in its Capacity as  
Trustee,  
Plaintiff-Respondent,

-against-

Index No. 651371/14

Merrill Lynch Mortgage Lending, Inc.,  
and Merrill Lynch Mortgage Investors,  
Inc.,  
Defendants-Appellants.

-----X

-----X  
Ownit Mortgage Loan Trust, Series  
2006-5 (Ownit 2006-5), by U.S. Bank  
National Association, Solely in its  
Capacity as Trustee,  
Plaintiff-Respondent,

-against-

Index No. 651370/14

Merrill Lynch Mortgage Lending, Inc.,  
Defendant-Appellant.

-----X  
Ownit Mortgage Loan Trust, Series  
2006-7 (Ownit 2006-7), by U.S. Bank  
National Association, Solely in its  
Capacity as Trustee,  
Plaintiff-Respondent,

-against-

Index No. 651373/14

Merrill Lynch Mortgage Lending, Inc.,  
Defendant-Appellant.

-----X

Defendants-appellants having moved for consolidation of the  
appeals taken from the order of the Supreme Court, New York  
County, entered on or about December 7, 2015,

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 appeals upon 9 copies of  
one record and of one set of appellant's points covering the  
appeal and enlarging the time in which to perfect the  
consolidated appeal to the April 2017 Term.

ENTERED:



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 December 15, 2016.

Present: Hon. David Friedman,  
Karla Moskowitz  
Troy K. Webber  
Marcy L. Kahn  
Ellen Gesmer,

Justice Presiding,

Justices.

-----X  
Cheryl Birdsall,  
Plaintiff-Respondent,

-against-

**M-5562**

Index No. 308921/09

New York City Transit Authority,  
Manhattan and Bronx Surface  
Transit Operating Authority,  
et al.,  
Defendants-Appellants.

-----X

Defendants-appellants having moved for an enlargement of time to perfect their appeal from an order of the Supreme Court, Bronx County, entered on or about January 22, 2016,

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 to perfect the appeal to the April 2017 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 December 15, 2016.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
Richard T. Andrias  
Paul G. Feinman  
Troy K. Webber, Justices.

-----X  
Amiral Holding SAS,  
Plaintiff-Appellant,

-against-

**M-6031**

XPresSpa Holdings LLC and Mistral Index No. 654051/16  
Capital Management LLC,  
Defendants-Respondents,

-and-

Bruce Bernstein,  
Defendant.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about November 21, 2016,

And, plaintiff-appellant having moved to enjoin defendants from taking any steps to consummate the proposed merger agreement between defendant XpresSpa Holdings and non-party FORM Holdings, Inc., pending determination of the appeal,

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

Ordered that the motion is granted on condition that plaintiff extends a bridge loan to defendant XPresSpa Holdings in the amount of \$4 million by December 22, 2016 to fund this

defendant's ongoing operations during the pendency of the appeal, that plaintiff posts an undertaking in the amount of \$6.5 million (inclusive of the undertaking already posted) by December 22, 2016, to protect the Rockmore loan, and on further condition that plaintiff perfects its appeal on or before January 30, 2017 for the April 2017 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 December 15, 2016.

Present: Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Troy K. Webber, Justices.

-----X

In the Matter of a Proceeding for  
Custody/Visitation Under Article 6  
of the Family Court Act.

**M-4557**

**M-5161**

Oscar S.,  
Petitioner-Respondent,

Docket Nos. V-28163/12  
V-28161/12  
V-28162/12  
V-28160/12  
V-34974/12  
V-34975/12  
V-34972/12  
V-34973/12

-against-

Joyesha J.,  
Respondent-Appellant.

-----  
Leslie S. Lowenstein, Esq.,  
Attorney for the Children  
Jaada S., X'Zavier S.,  
and Avanah S.,

Steven N. Feinstein, Esq.,  
Attorney for the Child,  
Kamaryn S.

-----X

An order of this Court having been entered on December 22, 2015 (M-5750), assigning Leslie S. Lowenstein, Esq., as counsel to respond on behalf of the "S. Children" to the appeal taken from the order of the Family Court, New York County, entered on or about August 10, 2015, and said appeal having been perfected; and a motion having been made to relieve such counsel only with respect to representing the child, Kamaryn S., and for an enlargement of time to respond to the appeal (M-4557),

And, petitioner-respondent father having cross-moved to vacate a stay issued by order of a Justice of this Court, dated August 19, 2015 (M-5161),

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

It is ordered that the motion is granted to the extent of striking the designation of assigned counsel, Leslie S. Lowenstein, Esq., as counsel to represent the child, Kamaryn S., and substituting, pursuant to Section 722 of the County Law, Steven N. Feinstein, Esq., One North Broadway, Suite #412, White Plains, NY 10601, Telephone No. (914) 949-8214, as such counsel. The poor person relief previously granted is continued, and respondent(s) time to file a respondent's brief is enlarged to the February 2017 Term, to which Term the perfected appeal is adjourned (M-4557). The cross motion is denied (M-5161).

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 December 15, 2016.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
Richard T. Andrias  
Paul G. Feinman  
Troy K. Webber, Justices.

-----X  
Cronos Group Limited,  
Plaintiff-Respondent,

-against-

M-5811  
Index No. 650187/16

XComIP, LLC and Jay Adams,  
Defendants-Appellants.  
-----X

Defendants-appellants having moved for a stay of all proceedings, including discovery, pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about August 17, 2016, and said appeal having been perfected,

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 Clerk of the Court is directed to maintain the appeal on the calendar for the January 2017 Term.

ENTER:



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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 December 15, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

-----X

In the Matter of Steven Mears,  
Petitioner,

For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules,  
in the Nature of a Writ of Mandamus,

M-6005  
Ind. No. 4854/03

-against-

Hon. Richard T. Andrias, and or, the  
Appellate Division, First Department,  
or whom ever is responsible,  
Respondents.

-----X

Proceeding pursuant to CPLR Article 78 in the nature of  
mandamus to vacate an order of a Justice of this Court denying a  
certificate for leave to appeal the denial of petitioner's motion  
to renew a CPL §440 application, and application having been made  
by petitioner for poor person relief,

Now, on the Court's own motion, it is

Ordered that the proceeding is transferred to the Appellate  
Division, Second Department, pursuant to New York Constitution,  
Article VI, §4(I), for hearing and determination, and it is  
further,

Ordered that all further proceedings in connection with the  
proceeding shall be conducted pursuant to the rules of the  
Appellate Division, Second Department.

ENTER:



CLERK