

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
Deborah Hampton Miller, etc.,
Plaintiff-Respondent,

-against-

A.O. Smith Water Products Co., et al., M-6867
Defendants, Index No. 190257/16

-and-

W. W. Grainger, Inc.,
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 21, 2019,

Now, upon reading and filing the stipulation of the parties hereto, dated October 21, 2019, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected, is withdrawn in accordance with the aforesaid stipulation.

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
Jessica Smith Yates, et al.,
Plaintiffs-Respondents,

-against-

M-7645
Index No. 30087/18E

Bar Taco Port Chester, LLC, et al.,
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about February 6, 2019,

Now, upon reading and filing the correspondence from counsel for defendants-appellants dated October 23, 2019, and due deliberation having been had thereon,

It is ordered that the appeal is deemed withdrawn in accordance with the aforesaid correspondence.

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

Ivan Dorador,
Plaintiff-Respondent,

-against-

M-7870

Index No. 101992/09

Trump Palace Condominium,
Defendant-Appellant.

- - - - -
[And third-party and second
third-party actions.]
- - - - -

Trump Palace Condominium,
Third Third-Party Plaintiff-
Appellant-Respondent,

-against-

Index No. 595134/16

Aztec Metal Maintenance Corp.,
Third Third-Party Defendant-
Respondent-Appellant.

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 29, 2018 (Case No. 2019-22520),

Now, upon reading and filing the correspondence from counsel for third third-party defendant-respondent-appellant Aztec Metal Maintenance Corp. dated October 22, 2019, and due deliberation having been had thereon,

(M-7870)

-2-

December 3, 2019

It is ordered that the cross appeal is deemed withdrawn in accordance with the aforesaid correspondence.

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

Ivan Dorador,
Plaintiff-Respondent,

-against-

M-7872

Index No. 101992/09

Trump Palace Condominium,
Defendant-Appellant.

- - - - -
[And third-party and second
third-party actions.]
- - - - -

Trump Palace Condominium,
Third Third-Party Plaintiff-
Appellant-Respondent,

-against-

Index No. 595134/16

Aztec Metal Maintenance Corp.,
Third Third-Party Defendant-
Respondent-Appellant.

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 29, 2018 (Case No. 2019-33521),

Now, upon reading and filing the correspondence from counsel for third third-party defendant-respondent-appellant Aztec Metal Maintenance Corp. dated October 22, 2019, and due deliberation having been had thereon,

(M-7872)

-2-

December 3, 2019

It is ordered that the cross appeal is deemed withdrawn in accordance with the aforesaid correspondence.

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
Rachel Siegel,
Plaintiff-Respondent,

-against-

James T. Robinson and FW Webb Company,
Defendants-Appellants,

M-7925
Index No. 158128/15

Enterprise FM Trust, et al.,
Defendants,

-and-

Chauncey A. Matthews,
Defendant-Respondent.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 1, 2018,

Now, upon reading and filing the stipulation of the parties hereto, dated October 29, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

In the Matter of the Application of
Elvis Baez,
Petitioner,

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

M-7912
Index No. 156005/17

-against-

New York State Office of Children and
Family Services,
Respondent.

-----X

An Article 78 proceeding having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about September 25, 2018, to review a determination made by respondent,

Now, upon reading and filing the stipulation of the parties hereto, dated October 16, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
N.D., an Infant by her Mother and Natural
Guardian, Amanda Lozada and Amanda Lozada,
Individually,
Plaintiffs-Respondents,

-against-

M-7915

Index No. 350404/11

New York City Health and Hospitals
Corporation,
Defendant-Appellant.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about June 8, 2017, and said appeal having been perfected,

Now, upon reading and filing the stipulation of the parties hereto, dated October 28, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

Judith Monaco-Callet,
Plaintiff,

-against-

M-7921

Index No. 158135/17

Huang's Holding Corp.,
Defendant-Respondent,

Village Vanguard,
Defendant-Appellant,

JZJ Services LLC, doing business as Spa
Jolie and Rivoli Pizza,
Defendants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about December 20, 2018,

And a motion having been made for an extension of time to perfect the aforementioned appeal,

Now, upon reading and filing the correspondence from counsel for defendant-appellant, dated October 23, 2019, and due deliberation having been had thereon,

It is ordered that the appeal and the within motion for an extension of time to perfect the appeal are deemed withdrawn in accordance with the aforesaid correspondence.

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

Canon Solutions America, Inc.,
Plaintiff-Appellant,

-against-

M-7973

Index No. 656395/18

Starnet Business Solutions, Inc.,
Defendant-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about July 8, 2019,

Now, upon reading and filing the correspondence from counsel for plaintiff-appellant, dated October 23, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
David Treadway,
Plaintiff,

-and-

Adam Famularo,
Plaintiff-Appellant,

M-7975
Index No. 653695/18

-against-

Workmarket, Inc.,
Defendant-Respondent.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 29, 2019,

Now, upon reading and filing the stipulation of the parties hereto, dated October 18, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

The Guardian Life Insurance of
America,
Plaintiff-Appellant-Respondent,

-against-

M-7977

Index No. 655063/16

Errol Brown,
Defendant-Respondent-Appellant.

-----X

Appeals and cross appeals having been taken to this Court from the order of the Supreme Court, New York County, entered on or about March 21, 2019 and from the judgment of the same Court, entered on or about June 25, 2019,

Now, upon reading and filing the Notice of Withdrawal of cross appeals from counsel for defendant-respondent-appellant dated October 28, 2019, and due deliberation having been had thereon,

It is ordered that the cross appeals are deemed withdrawn in accordance with the aforesaid Notice. The direct appeals remain extant.

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
John Kaprat,
Plaintiff-Respondent,

-against-

M-7982
Index No. 156714/16

7 West 21 LLC, et al.,
Defendants-Appellants.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 3, 2018,

Now, upon reading and filing the stipulation of the parties hereto, dated October 29, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
In the Matter of the Application of
Steven Werse, etc.,
Petitioner-Respondent,

For a Judgment Pursuant to Article 75, M-7983
Confirming an Arbitration Award, Index No. 656880/17

-against-

City of New York, et al.,
Respondents-Appellants.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 27, 2018,

Now, upon reading and filing the correspondence from counsel for respondents-appellants, dated October 25, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
DTE Studio, LLC,
Plaintiff-Appellant,

-against-

M-7986
Index No. 655835/18

Universal Standard, Inc.,
Defendant-Respondent.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about July 29, 2019,

Now, upon reading and filing the correspondence from counsel for plaintiff-appellant dated, October 25, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
Toyota Motor Sales, U.S.A., Inc.,
Petitioner-Appellant,

-against-

M-7987X
Index No. 656966/17

Robert M. Davis,
Respondent-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about February 5, 2019,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" June 18, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
Guadalupe Santos De Gomez,
Plaintiff-Respondent,

-against-

M-7988X
Index No. 24700/18

Concourse Rehabilitation & Nursing
Center, Inc., et al.,
Defendants-Appellants.

-----X

Appeals having been taken to this Court from two orders of the Supreme Court, Bronx County, entered on or about December 4, 2018 and April 26, 2019,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 24, 2019, and due deliberation having been had thereon,

It is ordered that the appeals are deemed withdrawn in accordance with the aforesaid stipulation.

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
Alba Jimenez,
Plaintiff-Respondent,

-against-

M-7991X
Index No. 300931/15

McDonalds Corp., et al.,
Defendants-Appellants.
-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about January 31, 2019,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 30, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against-

M-6879
Ind. No. 4265/15

Eduardo Ramirez,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about May 18, 2018, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from assigned counsel for defendant-appellant dated October 22, 2019, and due deliberation having been had thereon,

It is ordered that the motion is deemed withdrawn in accordance with the aforesaid correspondence.

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against-

M-7843
Ind. No. 1572/17

Angel Rodriguez,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about October 15, 2019, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, of the plea or trial, sentence and **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, 120 Wall Street, 28th Floor, New York, New York 10005, 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 180 days from the date of receipt of the complete record.

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against-

M-7878
Ind. No. 4149/16

Gary Bias,
Defendant-Appellant.

-----X

An order of the Supreme Court, New York County, having been entered on or about June 25, 2019, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about June 11, 2019,

Now, upon reading and filing the order which granted defendant poor person relief on appeal, and the notice of appeal filed on defendant's behalf,

It is ordered that the appeal is permitted to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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.

Janet E. Sabel, Esq., The Legal Aid Society, 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, 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 180 days from the date of receipt of the complete record.

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against-

M-7882
Ind. No. 4487/18

Daniel Hernandez,
Defendant-Appellant.

-----X

An order of the Supreme Court, New York County, having been entered on or about May 16, 2019, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about April 18, 2019,

Now, upon reading and filing the order which granted defendant poor person relief on appeal, and the notice of appeal filed on defendant's behalf,

It is ordered that the appeal is permitted to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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.

Janet E. Sabel, Esq., The Legal Aid Society, 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, 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 180 days from the date of receipt of the complete record.

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against-

M-7889
Ind. No. 148/18

Terrence Carter,
Defendant-Appellant.

-----X

An order of the Supreme Court, New York County, having been entered on or about June 19, 2019, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about June 17, 2019,

Now, upon reading and filing the order which granted defendant poor person relief on appeal, and the notice of appeal filed on defendant's behalf,

It is ordered that the appeal is permitted to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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.

Janet E. Sabel, Esq., The Legal Aid Society, 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, 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 180 days from the date of receipt of the complete record.

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against-

M-7958
Ind. No. 671/15

Selwyn Lee,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about January 25, 2017,

Now, upon reading and filing the stipulation of the parties hereto, dated October 10, 2019, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation. Defendant's appeal under Ind. No. 3977/15 remains extant.

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-7962
Ind. No. 3477/16

Emilz Rodriguez,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of the Supreme Court, Bronx County, rendered on or about October 16, 2017,

Now, upon reading and filing the stipulation of the parties hereto, dated October 1, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Rosalyn H. Richter, Justices.

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

-against-

M-7961
Ind. No. 1502/15

Robert Terry,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, Bronx County, rendered on or about January 5, 2017,

Now, upon reading and filing the stipulation of the parties hereto, dated October 3, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Rosalyn H. Richter, Justices.

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

-against-

M-7963
Ind. No. 2707/02

Francisco Vargas,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of the Supreme Court, Bronx County, rendered on or about May 19, 2003,

Now, upon reading and filing the stipulation of the parties hereto, dated October 28, 2019, and due deliberation having been had thereon,

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

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
Dianne T. Renwick
Angela M. Mazzairelli
Barbara R. Kapnick, Justices.

-----X
Franklin Morales,
Plaintiff-Respondent,

-against-

M-7954
Index Nos. 303499/11
251287/13

Marion Avenue Management LLC,
Defendant-Respondent.
-----X

Marion Avenue Management LLC,
Third-Party Plaintiff-Respondents,

-against-

Public Service Mutual Insurance
Company,
Third-Party Defendant-Appellant.
-----X

Third-party defendant-appellant, Public Service Mutual Insurance Company, having moved for an extension of time to perfect the consolidated appeals taken from an order of the Supreme Court, Bronx County, entered on or about February 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 extending the time to perfect the appeal to the March 2020 Term of this Court.

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 3, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
Dianne T. Renwick
Angela M. Mazzarelli
Barbara R. Kapnick, Justices.

-----X
David Moyal, derivatively on behalf
of Group IX, Inc.,
Plaintiff-Appellant,

-against-

M-8006
Index No. 601973/07

Stu Sleppin, Bob Teeman and Telecom
Switching, Inc.,
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for an extension of time to perfect the appeal taken from an order of the Supreme Court, New York County, entered on or about December 21, 2018,

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 extending the time to perfect the appeal to the April 2020 Term of this Court.

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 3, 2019.

Present - Hon. David Friedman, Justice Presiding,
Dianne T. Renwick
Peter Tom
Jeffrey K. Oing
Anil C. Singh, Justices.

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

-against-

M-7608
Ind. No. 655/17

Cisco Ward,
Defendant-Appellant.
-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about April 2, 2019,

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

It is ordered that the motion is granted to the extent of deeming the notice of appeal timely filed.

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 3, 2019.

Present - Hon. David Friedman, Justice Presiding,
Dianne T. Renwick
Peter Tom
Jeffrey K. Oing
Anil C. Singh, Justices.

-----X
Little Rest Twelve, Inc.,
Plaintiff-Respondent,

-against-

M-7806

Index No. 650209/10

Nina Zajic, Joseph Kay and David Kay,
Defendants-Appellants,

Thomas Giglio and Joseph Gill,
Defendants.

-----X

An appeal having been taken from a judgment of the Supreme Court, New York County, entered on or about January 23, 2018,

And defendants-appellants having moved to reinstate the appeal and upon reinstatement, to accept for filing the appellant's brief attached to the moving papers as Exhibit E, and to place the appeal back on this Court's calendar,

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, deemed to include a request to vacate the dismissal of appeal pursuant to NYCRR 1250.10(c), is granted, the dismissal is vacated, the appeal reinstated, and the time to perfect said appeal is extended to the March 2020 Term, with no further extensions to be granted. The motion is otherwise 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 3, 2019.

Present - Hon. David Friedman, Justice Presiding,
Dianne T. Renwick
Barbara R. Kapnick
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Kamco Supply Corp., on behalf of itself
and all other persons similarly situated
as trust fund beneficiaries of Lien Law
trusts of which Nastasi & Associates,
Inc., is a trustee,
Plaintiff-Respondent,

-against-

M-6996

Index No. 651725/15

Nastasi & Associates, Inc., Anthony J.
Nastasi, et al.,
Defendants,

J.T. Magen & Company Inc., Liberty
Mutual Insurance Company,
Defendants-Appellants.

-----X

Plaintiff-respondent having moved to dismiss the appeal taken from an order of the Supreme Court, New York County, entered on or about July 5, 2019,

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 3, 2019.

Present: Hon. David Friedman, Justice Presiding,
Peter Tom
Barbara R. Kapnick
Troy K. Webber, Justices.

-----X
Reinaldo Nunez,
Plaintiff-Respondent,

-against-

M-7765
Index No. 152329/15

Germania Nunez,
Defendant-Respondent,

-and-

Danny Budden, Clark Road Transport
Inc., and Ryder Truck Rental Canada,
Defendants-Appellants.

-----X

Plaintiff-respondent having moved for an order staying the trial in the above-entitled action pending the outcome of his application to appeal to the Court of Appeals, from the decision and order of this Court, entered on September 17, 2019 (Appeal No. 9570),

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 a stay is denied as moot as no trial is presently scheduled.

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 3, 2019.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Ellen Gesmer
Cynthia S. Kern, Justices.

-----x
Avail 1 LLC,
Plaintiff-Respondent,

-against-

Acquafredda Enterprises LLC, et al.,
Defendants-Appellants.
-----x

M-3745A
M-3881A
Index No. 380881/11

An appeal having been taken from an order and judgment (one paper) of the Supreme Court, Bronx County, entered on or about May 29, 2018,

And an order of this Court (M-3745/M-3881) having been entered on September 20, 2018, holding defendants-appellants' duplicate motions to stay the aforesaid judgment of foreclosure and sale of the subject property in abeyance due to the automatic stay arising out the filing of a Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the Southern District of New York,

And an order of the Bankruptcy Court having been entered on or about August 1, 2019, modifying the automatic stay to allow the appeal to proceed,

Now, on the Court's own motion,

It is ordered that the appeal taken from the order and judgment (one paper) of the Supreme Court, Bronx County, entered on or about May 29, 2018, previously held in abeyance due to the filing of the bankruptcy proceeding, is restored and defendants-appellants' time to perfect same is extended to the May 2020 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 3, 2019.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Cynthia S. Kern
Jeffrey K. Oing, Justices.

-----X

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

Shali D.,
Petitioner-Respondent,

CONFIDENTIAL

M-7959

Docket Nos. V-32196/15
V-32196/15/19A
V-34630/15
V-34630-15/19A

-against-

Victoria V.,
Respondent-Appellant.

Roma Baran, Esq.,
Attorney for the Child Sofia D.

-----X

An appeal having been taken from an order of the Family Court, New York County, entered on or about August 27, 2019.

And respondent-appellant having moved to stay enforcement of the aforesaid order pending hearing and determination of the appeal taken therefrom and for an order extending a prior final order of custody and visitation issued by the Family Court, New York County on or about August 4, 2017,

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

It is ordered that the motion is denied without prejudice to respondent-appellant seeking the appropriate relief in Family Court.

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 3, 2019.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Cynthia S. Kern
Jeffrey K. Oing, Justices.

-----X
Atlas MF Mezzanine Borrower, LLC,
a Delaware limited liability company,
Plaintiff-Appellant,

-against-

Macquarie Texas Loan Holder, LLC,
et al.,
Defendants-Respondents.
-----X

SEALED

M-7993

Index No. 651657/17

Appeals having been taken from an order of the Supreme Court, New York County, entered on or about October 21, 2019, and said appeals having been perfected,

And plaintiff-appellant having moved for a stay of trial, or, in the alternative, a preference in the calendaring of the appeals; for an injunction impounding certain funds; and for an order consolidating the appeals,

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

It is ordered that so much of the motion seeking consolidation of the appeals is denied as unnecessary; the remainder of the motion is denied in its entirety.

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 3, 2019.

PRESENT: Hon. David Friedman, Justice Presiding,
Jeffrey K. Oing
Anil C. Singh
Peter H. Moulton, Justices.

-----X
Thomas Caso,
Plaintiff-Respondent,

-against-

M-7789
Index No. 159192/15

Miranda Sambursky Slone Sklarin
Verveniotis LLP, Michael Miranda,
Richard Sklarin, Ondine Slone and
"John Doe" and "Richard Doe",
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about October 1, 2019, and said appeal having been perfected,

And defendants-appellants having moved for a stay of trial pending hearing and determination of the aforesaid appeal,

And an interim stay of trial pending the determination of the within motion having been issued by a Justice of this Court by order entered October 14, 2019,

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 interim stay granted by an order of a Justice of this Court, is continued pending the hearing and determination of the aforesaid appeal.

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 3, 2019.

Present - Hon. David Friedman, Justice Presiding,
Jeffrey K. Oing
Anil C. Singh
Peter H. Moulton, Justices.

-----X

In the Matter of the Claim of

Claudette Atkinson,
Petitioner-Respondent,

-against-

M-7941
Index No. 29358/18E

New York City Health and Hospitals Corporation and Alina Purcea, M.D.,
Respondents-Appellants.

-----X

Respondents-appellants having moved for an extension of time to perfect the appeal taken from an order of the Supreme Court, Bronx County, entered on or about December 13, 2018,

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 extending the time to perfect the appeal to the March 2020 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 3, 2019.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,
Judith J. Gische
Peter Tom
Ellen Gesmer
Anil C. Singh, Justices.

-----X

Nicholas Wilder,
Plaintiff-Appellant,

-against-

M-7161

Index No. 100841/18

Fresenius Medical Care Holdings, Inc.,
(doing business as Fresenius Medicare Care North America), Avantus Renal Therapy New York, LLC Eliot Charen, MD, Marilous Mateo, Judy Ammar, Chenille Apurada Saraswati Kasti,
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for reargument of the decision and order of this Court, entered on August 6, 2019 (Appeal No. 9260),

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 3, 2019.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,
Judith J. Gische
Troy K. Webber
Peter H. Moulton, Justices.

-----X
Odilson Fuentes,
Plaintiff-Respondent,

-against-

M-7031
Index No. 450153/14

KWIK Realty LLC,
Defendant-Appellant.
-----X

Plaintiff-respondent having moved for renewal/reargument of, or in the alternative, for leave to appeal to the Court of Appeals, the decision and order of this Court, entered on July 30, 2019 (Appeal No. 9163),

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 reargument is granted and, upon reargument, the decision and order of this Court entered on July 30, 2019 (Appeal No. 9163) is recalled and vacated and a new decision and order substituted therefor. (See Appeal No. 9163 decided simultaneously herewith.) The motion is otherwise 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 3, 2019.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Judith J. Gische
Angela M. Mazzarelli
Peter H. Moulton, Justices.

-----X
Carl Langer and Tara Langer,
Plaintiffs-Respondents,

-against-

MTA Capital Construction Company,
Plaza Construction Corp., Plaza
Construction LLC and Schiavone
Construction Co., LLC,
Defendants-Appellants-Respondents.

M-8030

-----X Index No. 159912/14

MTA Capital Construction Company, Plaza
Construction Corp., Plaza Construction
LLC and Schiavone Construction Co., LLC,
Third-Party Plaintiffs-
Appellants-Respondent,

-against-

E-J Electric Installation Company,
Third-Party Defendant
Respondent-Appellant,

-and-

Hatzel and Buehler, Inc.,
Third-Party Defendant-Respondent.

-----X

An appeal and cross appeal having been taken from an order of the Supreme Court, New York County, entered on or about February 1, 2019, and said appeal and cross appeal having been perfected,

And defendants/third-party plaintiffs-appellants-respondents having moved for an order staying the trial in the above-entitled action 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.

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 3, 2019.

PRESENT: Hon. Rosalyn H. Richter, Justice Presiding,
Sallie Manzanet-Daniels
Troy K. Webber
Ellen Gesmer, Justices.

-----X
Crede CG III, Ltd.,
Plaintiff-Respondent,

-against-

M-8079
Index No. 651156/18

Tanzanian Gold Corporation, formerly
known as Tanzanian Royalty Exploration
Corp.,
Defendant-Appellant.
-----X

Appeals having been taken from order and judgment (one paper) of the Supreme Court, New York County, entered on or about August 19, 2019 and from the order, same court, entered on or about October 17, 2019, and said appeals having been perfected,

And defendant-appellant having moved to stay, pending hearing and determination of the aforesaid appeal, enforcement of so much of the order entered October 17, 2019 which required defendant-appellant to post a certain undertaking in order to stay enforcement of the order and judgment entered on August 19, 2019, 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 staying so much of the order entered on October 17, 2019 which required the posting of an undertaking as a condition of the stay of enforcement of the order and judgment entered on August 19, 2019. In all other respects, the order entered on October 17, 2019 remains in effect.

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 3, 2019.

PRESENT: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Barbara R. Kapnick
Ellen Gesmer
Anil C. Singh, Justices.

-----X
Kalman Kaspiev,
Plaintiff-Appellant,

-against-

M-7924
Index No. 800008/14

Irina Pankova, M.D., et al.,
Defendants-Respondents.
-----X

Plaintiff-appellant having moved for leave to file a supplemental brief in connection with the perfected appeal taken from an order of the Supreme Court, New York County, entered on or about September 22, 2017,

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 3, 2019.

Present - Hon. Judith J. Gische, Justice Presiding,
Troy K. Webber
Cynthia S. Kern
Peter H. Moulton, Justices.

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

-against-

M-7749
Ind. No. 1217N/18

Adonis Acosta,
Defendant-Appellant.

-----X

Defendant having moved for an extension of time in which to file an untimely notice of appeal from a judgment of the Supreme Court, New York County, rendered on or about June 6, 2019, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted only to the extent of deeming the moving papers a timely filed notice of appeal.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew, upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a) and 22 NYCRR 1250.4(d)(1) and (4), setting forth, inter alia, facts sufficient to establish that defendant is indigent and has no funds or assets with which to prosecute the appeal, including the amount and sources of his income and a list of his property with its value.

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 3, 2019.

Present - Hon. Judith J. Gische, Justice Presiding,
Jeffrey K. Oing
Anil C. Singh
Peter H. Moulton, Justices.

-----X
Municipal Credit Union,
Plaintiff-Respondent,

-against-

Clifton Garrett,
Defendant-Appellant,

M-7770

Index No. 380345/13

New York City Transit Adjudication
Bureau, et al.,
Defendants.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about July 31, 2018,

And defendant-appellant having moved to renew his motion for an order directing a reconstruction hearing to be held in the Bronx Supreme Court and for leave to appeal to the Court of Appeals (See M-3350, decided September 10, 2019),

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 in all respects.

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 3, 2019.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Ellen Gesmer
Peter H. Moulton, Justices.

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

-against-

M-7711
Ind. No. 3701/13

Joancis Delacruz Arias,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of the Supreme Court, New York County, rendered on or about July 31, 2014,

And an order of this Court having been entered on June 21, 2018 (M-2237), deeming the aforementioned appeal withdrawn pursuant to a stipulation of the parties dated April 27, 2018,

And defendant-appellant having moved to reinstate the appeal and upon reinstatement, to continue the poor person relief granted by this Court by order entered on December 2, 2014 (M-4795),

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

It is ordered that the motion is granted, the appeal is reinstated and the poor person relief previously granted is continued, including the assignment of Christina Swarns, Esq., The Office of the Appellate Defendant as assigned counsel to prosecute defendant's appeal. The appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the complete record, whichever is later.

ENTERED:


CLERK