

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 August 17, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
 Peter Tom
 Angela M. Mazzarelli
 Richard T. Andrias
 David B. Saxe

-----X
Marilexis Torres, etc., et al.,

Plaintiffs-Respondents,

-against-

M-2731
Index No. 109359/08

Terence Cardinal Cooke Health Care Center,

Defendant-Appellant.

-----X

Defendant-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on April 27, 2010 (Appeal No. 2620),

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Wilson, Elser, Moskowitz, Edelman & Dicker LLP (Judy C. Selmecci, of counsel) dated May 19, 2010, and due deliberation having been had thereon,

It is ordered that the motion is deemed withdrawn in accordance with the aforesaid correspondence.

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 August 17, 2010.

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

-----X
97th Street Holdings, LLC,
Plaintiff-Appellant,

-against-

M-2923
Index No. 102105/09

East Side Tenants Corporation,
Defendant-Respondent,

Nicholas Toumbekis (as escrow agent),
Defendant.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about January 28, 2010,

And plaintiff-appellant having moved pursuant to CPLR 5518 enjoining and/or restraining defendant-respondent from selling the property located as 230 East 97th Street, New York, New York, to a third party buyer, pending hearing and determination of the appeal taken therefrom,

Now, upon reading and filing the stipulation of the parties hereto, dated June 10, 2010, and due deliberation having been had thereon,

It is ordered that the motion is deemed withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

-----X
Gerald Bellamy,

Plaintiff-Appellant,

-against-

M-1639
Index No. 302588/09

Jessica Ingram Bellamy,

Defendant-Respondent.
-----X

Plaintiff-appellant having moved for a stay of the order of the Supreme Court, New York County, entered on or about March 24, 2010, pending hearing and determination of the appeal taken therefrom,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Lauren P. Raysor, Esq., counsel for plaintiff-appellant, dated April 2, 2010, and due deliberation having been had thereon,

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

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 August 17, 2010.

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

-----x
Zhiye International, Inc., et al.,
 Plaintiff-Appellant,

-against-

M-1624
Index No. 116877/09

George Park, et al.,
 Defendants-Respondents.

-----x
Plaintiff-appellant having moved for a stay of enforcement of the order of the Supreme Court, New York County, entered on or about March 22, 2010, pending hearing and determination of the appeal taken therefrom,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Michael S. Grossman, Esq., counsel for plaintiff-appellant, dated April 7, 2010, and due deliberation having been had thereon,

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

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 August 17, 2010.

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

-----X
In the Matter of the Application of
Richard Ronga,
Petitioner-Appellant,

For a Judgment Pursuant to Article 78
of the CPLR,

M-1541
Index No. 114627/08

-against-

Joel I Klein, etc., et al.,
Respondents-Respondents.

-----X

Appeals having been taken to this Court from the judgments of the Supreme Court, New York County, entered on or about March 24, 2009 and November 27, 2009, respectively,

And respondents-respondents having moved for an adjournment of the perfected appeal from the judgment entered on March 24, 2009, a consolidation of the aforesaid appeals, and for other relief,

Now, upon reading and filing the papers with respect to the motion, and upon reading and filing the stipulation of the parties hereto, dated July 21, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are consolidated for purposes of argument, and the Clerk is directed to calendar the appeals for hearing together in the November 2010 Term, to which Term the appeal from the judgment entered on or about March 24, 2010 is adjourned.

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 August 17, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David Friedman
James M. McGuire
Sheila Abdus-Salaam, Justices.

-----X
Jeffrey Cusack, et al.,
Plaintiffs,

-against-

M-1187
Index No. 102399/05

Federated Department Stores, Inc.,
Defendants,

Rockaway Company,
Defendant.

- - - - -
Federated Department Stores, Inc.,
Third-Party Plaintiffs,

-against-

Index No. 59116/05

Tempa General Contractor Corp.,
Third-Party Defendant.

- - - - -
Rockaway KB Company LLC, formerly
known as "Rockaway Company",
Second Third-Party Plaintiff,

-against-

Index No. 590691/08

Sunglass Hut Trading, LLC,
Second Third-Party
Defendant.

-----X

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about March 3, 2010,

And defendant/third-party plaintiff Rockaway KB Company, LLC, formerly known as "Rockaway Company" having moved for a stay of trial pending hearing and determination of the aforesaid appeal, and for related relief,

August 17, 2010

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Martin Clearwater & Bell, LLP (Stewart G. Milch, of counsel) counsel for appellant dated March 22, 2010, and due deliberation having been had thereon,

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

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 August 17, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David Friedman
James M. McGuire
Sheila Abdus-Salaam, Justices.

-----X

In the Matter of the Application of

Alessandro Spano,
Petitioner-Appellant,

For a Judgment Pursuant to Article 78
of the CPLR,

M-2444
Index No. 106547/08

-against-

New York State Racing and Wagering
Board,

Respondent-Respondent.

-----X

Petitioner-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 April 1, 2010 (Appeal No. 2480),

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 August 17, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Diane T. Renwick
Leland G. DeGrasse, Justices.

-----X
Muriel Karas,

Plaintiff-Appellant,

M-1757

M-1831

-against-

M-2206

Index No. 103788/07

Christopher T. Coad, M.D., et al.,

Defendants-Respondents.

-----X

Defendants-respondents, having moved by separate motions (M-1757/M-2206) and by cross motion (M-1831) for the dismissal of plaintiff's previously consolidated appeals taken from the orders of the Supreme Court, New York County, entered on or about December 15, 2008 (mot. seq. no. 003) and on or about March 2, 2009 (mot. seq. no. 005) and from the judgment of said Court entered on or about March 26, 2009, respectively,

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

It is ordered that the motions and cross motion are granted and the consolidated appeals are 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 August 17, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
James M. Catterson
Diane T. Renwick
Sallie Manzanet-Daniels, Justices.

-----X
In the Matter of a Proceeding for
Support Under Article 4 of the Family
Court Act.

Nicole F.,
Petitioner-Respondent,

M-2678
Docket No. F-04006-98/00B

-against-

Omar M.,
Respondent-Appellant.

-----X
An appeal having been taken from the order of the Family Court, Bronx County, entered on or about June 16, 2009,

And Steven N. Feinman, Esq., assigned counsel for respondent-appellant father, having moved for an order relieving him as counsel on the appeal and withdrawing said appeal as abandoned by respondent father,

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 relieving Steven N. Feinman, Esq., as counsel on the appeal and, sua sponte, dismissing said appeal as abandoned.

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 August 17, 2010.

PRESENT - Hon. Peter Tom,
Angela Mazzarelli
Jonh W. Sweeney, Jr.
Helen E. Freedman
Sheila Abdus-Salaam,

Justice Presiding,

Justices .

-----X

In the Matter of

Trisha B.,

M-2746

A Person Alleged to Be a Juvenile
Delinquent,

Docket No. D-12285/09

Appellant.

-----X

Appellant having moved for leave to prosecute the appeal from
the order of the Family Court, New York County, entered on or about
July 6, 2009, as a poor person, 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 and pursuant to Section 35 of
the Judiciary Law, Article 18b of the County Law and Section 1120 of
the Family Court Act (1) Lisa H. Blitman, Esq., 225 Broadway, Suite
1203 New York, NY 10007, Telephone No. (212)724-2792 is assigned as
counsel, for purposes of prosecuting the appeal (2) directing the
Clerk of said Family Court to have transcribed the minutes of the
proceedings held therein, for inclusion in the record on appeal, the
cost thereof to be charged against the State of New York from funds
available therefor¹; within 30 days (FCA 1121[7]) of service of a copy
of this order upon the Clerk; (3) permitting appellant to dispense
with any fee for the transfer of the record from the Family Court to
this Court. The Clerk of the Family Court shall transfer the record
upon receipt of this order; and (4) directing appellant to perfect
this appeal within 60 days of receipt of the transcripts. Assigned
counsel is directed to immediately serve a copy of this order upon the
Clerk of the Family Court.

ENTER:


Clerk.

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

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 August 17, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David Friedman
James M. McGuire
Rolando T. Acosta
Nelson S. Román, Justices.

-----x
Stoneridge Homes, Inc., et al.,

Plaintiffs-Appellants,

-against-

M-2413
Index No. 602799/08

First Sterling Investors 003, et al.,

Defendants-Respondents.

-----x

Plaintiffs-appellants having moved for a stay of the order of the Supreme Court, New York County, entered on or about September 29, 2009, pending hearing and determination of the appeal taken therefrom,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Noel Munier, Esq., counsel for plaintiffs-appellants dated May 10, 2010, and due deliberation having been had thereon,

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

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 August 17, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding
Jonh W. Sweeney, Jr.
James M. Catterson
James M. McGuire, Justices.

-----X
Gloria Aguilar, et al.,
Plaintiffs-Respondents,

-against-

M-2839
Index No. 103132/06

New York City Transit Authority,
MABSTOA,, and Andrew Monaco,
Defendants-Appellants.
-----X

Defendants-appellants having moved for an enlargement of
time in which to perfect the appeal from the judgment of the
Supreme Court, New York County, entered on or about August 6,
2009,

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

It is ordered that the motion is granted to the extent of
enlarging the time in which to perfect the appeal to the November
2010 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 August 17, 2010.

PRESENT - Hon. Peter Tom,	Justice Presiding,
Jonh W. Sweeney, Jr.	
James M. Catterson	
Nelson S. Román,	Justices.

-----X
In the Matter of the Application of Guardian
and Custody of

Anthony P.,

A Dependent Child under 18 Years
of Age Pursuant to §384-b
of the Social Services Law,

Episcopal Social Services,
Petitioner-Respondent,

M-2829
Docket No. B-6600/08

Shanae P.,
Respondent-Appellant.

Lawyers for Children,
Law Guardian for the Child.

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, New York County, entered on or about March 2, 2010, and for assignment of counsel, a free copy of the transcript, and related relief,

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

Ordered that the motion is granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and § 1120 of the Family Court Act, Andrew Baer, Esq., 299 Broadway Suite 1415, New York, NY 10007, Telephone No. (212) 233-0318, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from

August 17, 2010

funds available therefor¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


Clerk.

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

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 August 17, 2010.

Present: Hon. Peter Tom, Justice Presiding,
James M. McGuire
Karla Moskowitz
Rolando T. Acosta
Helen E. Freedman, Justices.

-----X
West 138th Street Properties, LLC,

Petitioner-Respondent,

M-2170
Index No. 570536/09

-against-

Duane Patrick and Barbara Mitchell,

Respondents-Appellants.

-----X

Respondents-appellants having moved for leave to appeal to this Court from the order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about February 25, 2010, and for leave to prosecute said appeal as a poor person,

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 August 17, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Eugene Nardelli
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
Spencer Stukes,
Plaintiff-Respondent,

-against-

FJC Security Services, Inc.,
Defendant-Appellant,

M-2332
Index No. 23921/05

Volunteers of America, et al.,
Defendants.

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

Defendant-appellant having moved for a stay of trial pending hearing and determination of the appeal from the order of the Supreme Court, Bronx County, entered on or about February 23, 2010,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Fiedelman & McGaw (Dawn C. DeSimone, of counsel) dated May 17, 2010, and due deliberation having been had thereon,

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

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 August 17, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Eugene Nardelli
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

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

-against-

M-2479
Ind. No. 3352/84

Carlos Ramos, also known as Gary
Thomas,

Defendant.
-----X

An order of this Court having been entered on July 17, 1986 (M-2953), dismissing defendant's appeal from the judgment of the Supreme Court, Bronx County, rendered on or about June 6, 1985,

And defendant having moved for the reinstatement of his appeal, for leave to prosecute said appeal as a poor person, 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.

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 August 17, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Eugene Nardelli
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X
Cornell University, et al.,
Plaintiffs-Respondents,

-against-

Francine Gordon,
Defendant-Appellant.
-----X

M-2275
M-2796
Index No. 103966/01

Defendant-appellant having moved (M-2275) 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 March 18, 2010 (Appeal No. 2399),

And plaintiffs-respondents having cross-moved (M-2796) for the aforesaid relief,

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 by defendant-appellant (M-2275) is denied. It is further ordered that the cross-motion by plaintiffs-respondents is granted to the extent of granting reargument and, upon reargument, the decision and order of this Court entered on March 18, 2010 (Appeal No. 2399) is recalled and vacated and a new decision and order substituted therefor. See Appeal No. 2399 decided simultaneously herewith. So much of the motions which seek leave to appeal to the Court of Appeals 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 August 17, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David Friedman
Karla Moskowitz
Rolando T. Acosta, Justices.

-----X

Raul Salazar,
Plaintiff-Appellant,

-against-

M-2691

M-2723

Novalex Contracting Corp., 96 Rockaway,

M-2904

LLC and T-Construction Co., Inc.,

Index No. 21604/04

Defendants-Respondents.

-----X

[And a Third-Party Action]

-----X

Defendants-respondents having each separately moved (M-2691/M-2723/M-2904) for leave to appeal to the Court of Appeals from the decision and order of this Court entered on April 1, 2010 (Appeal No. 227),

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 (M-2691/M-2723/M-2904) 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 this Court, which reversed the order of Supreme Court, properly made?"

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

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 August 17, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Juliette Williams,
Plaintiff-Respondent,

-against-

The City of New York,
Defendant,

M-1668
M-2927X
Index No. 24483/02

-and-

New York City Transit Authority,
Manhattan and Bronx Surface Transit
Operating Authority and Kevin S. Jones,
Defendants-Appellants.

-----X

Defendants-appellants having moved for an enlargement of
time in which to perfect the appeal from the judgment of the
Supreme Court, Bronx County, entered on or about June 30, 2009
(M-1668),

Now, upon reading and filing the papers with respect
to the motion, and after pre-argument conference and upon reading
and filing the stipulation of the parties hereto, "so ordered"
May 28, 2010 (M-2927X), it is,

Ordered that the motion for an enlargement of time is deemed
withdrawn (M-1668) and the appeal is withdrawn (M-2927X) in
accordance with the aforesaid stipulation.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme
Court held in and for the First Judicial Department
in the County of New York on August 17, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Dianne T. Renwick
Sallie Manzanet-Daniels, Justices.

-----X
Ruth Kassover, As Co-Executor of the
Estate of Nathan Kassover et. al.,
Plaintiffs-Appellants-Respondents,

-against-

PVP-GCC Holding Co II, LLC and The
Garden City Company, Inc.,
Defendants,

M-2818
Index No. 602434/05

-and-

R. Peyton Gibson, as Disbursing Agent,
Defendant-Respondent-Appellant,

-and-

Prism Venture Partners, LLC, Richard
Sabella and R. Peyton Gibson,
Non-Party Respondents.

-----X

A decision and order of this Court having been entered on
May 25, 2010 (Appeal No. 2880) and,

An appeal and cross appeal having been taken from the judgment of
Supreme Court, New York County, entered on or about June 9, 2009,

And defendant-respondent-appellant disbursing agent R. Peyton
Gibson having moved for the imposition of costs and sanctions, and
attorneys fees against plaintiffs-appellants-respondents and their
counsel with respect to the aforesaid appeal,

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

Ordered that the motion is denied.

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 August 17, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Christopher I. Georgakis,

Plaintiff-Respondent,

-against-

Excel Maritime Carriers Ltd.,

M-2679
Index No. 650322/08

Defendant-Appellant,

NYSE Euronext,

Amicus Curiae.
-----X

Plaintiff-respondent having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on April 13, 2010 (Appeal No. 2529),

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Brown Gavalas & Fromm LLP (Peter Skoufalos, of counsel) dated May 26, 2010, and due deliberation having been had thereon,

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

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 August 17, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
James M. Catterson
Karla Moskowitz
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Elizabeth Frances Kerrigan, as
Executrix of the Estate of Thomas
Connelly, etc., et al.,
Plaintiffs-Respondents-Appellants,

-against-

RM Associates, Inc., etc., et al.,
Defendants-Appellants-Respondents,

M-949
Index No. 100316/08

Tri-City Insurance Brokers, Inc., etc.,
et al.,
Defendants,

Ace INA, et al.,
Defendants-Respondents.

-----X

Admiral Insurance Company having moved for leave to appear amicus curiae in connection with a motion for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 29, 2009 (Appeal No. 1874), which is presently sub judice,

Now, upon reading and filing the papers with respect to the motion, the correspondence from Litchfield Cavo LLP (Joseph E. Boury, of counsel) dated April 22, 2010, and the correspondence from Milber Makris Plousadis & Seiden, LLP (Debra Miller Krebs, of counsel) dated June 4, 2010, and due deliberation having been had thereon,

It is ordered that the motion for leave to appear amicus curiae is deemed withdrawn.

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 August 17, 2010.

PRESENT: Hon. Angela Mazzairelli, Justice Presiding
Dianne T. Renwick
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
In the Matter of the Application
of Lois Katz and Faya Cohen, as
Trustees of the 1996 A. Alpert Trust,
Petitioners-Respondents,

For an Order Pursuant to Article
75 of the CPLR Staying Arbitration
Before the American Arbitration
Association

-against-

Charles Alpert and Joseph Alpert,
Respondents-Appellants.

M-2967
Index No. 602045/09

-----X

Respondents-appellants having moved for an enlargement of
time in which to perfect the appeal from the order of the Supreme
Court, New York County, entered on or about October 2, 2009,

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

It is ordered that the motion is granted to the extent of
enlarging the time in which to perfect the appeal to the December
2010 Term, with no further enlargements to be granted.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

PRESENT - Hon: Angela Mazzairelli, Justice Presiding,
Dianne T. Renwick
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

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

-against-

M-2931
Ind. No. 3944/07

Michael Lewis,
Defendant-Appellant.
-----X

An appeal having been taken from the judgment of the Supreme Court, Bronx County, rendered on or about January 8, 2010,

And an order of this Court having been entered on April 20, 2010 (M-1214) granting defendant leave to prosecute the appeal as a poor person, assignment of appellate counsel, and related relief,

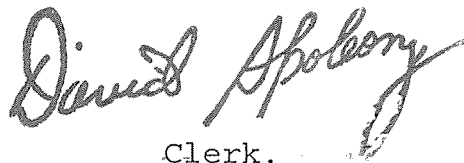
And a duplicate order having been entered on April 27, 2010 (M-1425) granting defendant said relief,

And assigned counsel having moved for an order vacating the order of this Court entered April 27, 2010 (M-1425) as being duplicative of the prior order of this Court entered on April 20, 2010 (M-1214),

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 order of this Court entered April 27, 2010 (M-1425) is hereby recalled and vacated.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

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

-against-

M-2977
Ind. No. 5365/07

Wilfredo Sierra,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about January 18, 2008,

And assigned counsel, Richard M. Greenberg, Esq., having moved to be relieved as counsel on the appeal or for the dismissal 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 deeming the appeal withdrawn.

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 August 17, 2010.

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

-----X
Luz Ayala,

Plaintiff-Appellant,

-against-

M-3147
Index No. 23000/06

Victor A. Reyes,

Defendant-Respondent.

-----X

Defendant-respondent having moved for dismissal of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about July 14, 2009,

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

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

-----X
Galina Vlasova,
Plaintiff-Appellant,

-against-

M-3029
Index No. 114000/05


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

Plaintiff-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Supreme Court, New York County, entered on or about August 10, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied and, sua sponte, the appeal is dismissed.

Enter



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
Jonh W. Sweeney, Jr.
James M. McGuire
Roland T. Acosta, Justices.

-----X
Leonidas J. Rodriguez, Johan Rodriguez,
infants by mother and natural guardian
Tania Villanueva, and Tania Villanueva,
individually,
Plaintiffs-Appellants,

-against-

M-3159
Index No. 22442/06

Tawiah Baffour and Kathryn M Venditti,
Defendants-Respondents.

-----X
Tawiah Baffour,
Third-Party Plaintiff-Respondent,

-against-

Zhiqun Zu and Jianping Tang,
Third-Party Defendants-Respondents.

-----X

Defendant-respondent Tawiah Baffour having moved to dismiss the appeal from the order of the Supreme Court, New York County, entered on or about August 25, 2009,

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

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

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

-against-

M-2973
Ind. No. 1462/07

Alex Burgos,
Defendant-Appellant.

-----X

The People having moved for dismissal of the appeal taken from the judgment of the Supreme Court, Bronx County, rendered on or about May 27, 2008,

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

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

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

Respondent,

M-2981
Ind. No. 6520/00

-against-

Roy Parker,
Defendant-Appellant.

-----X

Respondent People having moved for dismissal of the appeal taken from the order of the Supreme Court, New York County, rendered on or about January 28, 2010 denying resentence,

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

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

-----X
In the Matter of

Christian Matthew V.,

A Dependent Child under 18 Years
of Age Pursuant to §384-b of the
Social Services Law of the State
of New York.

M-3002
Docket No. B14192/06

- - - - -
Edwin Gould Services for Children
and Families, et al.,
Petitioners-Respondents,

Victor Manuel V.,
Respondent-Appellant.

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

-----X

Petitioners-respondents having moved for dismissal of the appeal taken from the order of the Family Court, New York County, entered on or about June 8, 2009,

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

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

-----X
Amauris Tavaréz, an infant by his
father and natural guardian, Rafael
Tavaréz, and Rafael Tavaréz,
Individually,
Plaintiffs-Appellants,

M-3149
Index No. 27113/03

-against-

Pedro Tavaréz, et al.,
Defendants-Respondents.

-----X

Defendants-respondents having moved for dismissal of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about April 14, 2008,

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

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

PRESENT - Hon. Richard T. Andrias,	Justice Presiding
David B. Saxe	
Jonh W. Sweeney, Jr.	
James M. McGuire	
Roland T. Acosta,	Justices

-----X
Griselda Solis,
Plaintiff-Appellant,

-against-

M-3113
Index No. 106814/03

New York City Transit Authority, et al.,
Defendants-Respondents.

-----X

Defendant-respondent Marcia Service Corp. having moved to dismiss the appeal from the order of the Supreme Court, New York County, entered on or about August 10, 2009,

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

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

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

James Reynolds,
Petitioner,

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

M-3153
M-3322
Index No.260179/08

Queens County Board of Elections,
et al.,
Respondents.

-----X

Petitioner having moved (M-3153) for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about August 14, 2009,

And respondents having cross-moved (M-3322) to dismiss the aforesaid appeal,

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

It is ordered that the motion (M-3153) for an enlargement of time to perfect the appeal is denied. The cross-motion (M-3322) is granted and the appeal is dismissed.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

-----X
In the Matter of

	M-2882
Bayyinah G.,	Docket No. O-0007/09
Petitioner-Respondent,	IDV No. 206/04

-against-

Herbert G. T.,
Respondent-Appellant.

-----X

Respondent-appellant father having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, Integrated Domestic Violence Part, entered on or about March 15, 2010, and for assignment of counsel, a free copy of the transcript, and related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Christina Brandt-Young, Esq., New York Legal Assistance Group, 450 West 33rd Street, New York, NY 10001, Telephone No. (212) 613-5086, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Supreme Court, Integrated Domestic Violence Court, to have transcribed within 60 days of service of a copy of this order upon said Clerk, the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against

August 17, 2010

the City of New York from funds available therefor¹; (3) permitting appellant to dispense with any fee for transferring the record from the Supreme Court to this Court and; (4) enlarging the time to perfect this appeal until 120 days from the date of filing of the record. Assigned counsel is directed to immediately subpoena the record from the Supreme Court, Bronx County, Integrated Domestic Violence Court, and to serve a copy of this order upon the Clerk of said Supreme Court.

ENTER:



Clerk.

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

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 August 17, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
Jonh W. Sweeney, Jr.
James M. McGuire
Roland T. Acosta, Justices.

-----X
In the Matter of

Ramona A. A.,
Petitioner-Respondent,

M-3006
Docket No. O-15008/10

-against-

Juan M. N.,
Respondent-Appellant.

-----X

Respondent-appellant having moved for leave to prosecute,
as a poor person, the appeal from an order of the Family Court,
New York County, entered on or about May 13, 2010, and for
assignment of counsel, a free copy of the transcript, and related
relief,

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

Ordered that the motion is granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and
§ 1120 of the Family Court Act, Seth Kaufman, Esq., 61 Broadway
Suite 2125, New York, NY 10006, Telephone No. (646)249-4416, as
counsel for purposes of prosecuting the appeal; (2) directing the
Clerk of said Family Court to have transcribed the minutes of the
proceedings held therein, for inclusion in the record on appeal,
the cost thereof to be charged against the City of New York from
funds available therefor¹ within 30 days (FCA 1121[7]) of service
of a copy of this order upon the Clerk; (3) permitting appellant
to dispense with any fee for the transfer of the record from the
Family Court to this Court. The Clerk of the Family Court shall
transfer the record upon receipt of this order; and

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

August 17, 2010

(4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme
Court held in and for the First Judicial Department
in the County of New York on August 17, 2010.

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

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

Mohamed D.,
Petitioner-Appellant,

-against-

M-2883
Docket Nos. V2526-8/07
V10474/08

Hawa D.,
Respondent-Respondent.
-----X

Respondent-respondent having moved for leave to respond, as
a poor person, to the appeal from the order of the Family Court,
Bronx County, entered on or about January 7, 2010, 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
(1) 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 attorneys for petitioner-appellant and 10 copies
thereof are to be filed with this Court, and (2) assigning,
pursuant to Section 18b of the County Law and § 1120 of the
Family Court Act, Christina Brandt-Young, Esq., New York Legal
Assistance Group, 450 West 33rd Street, New York, NY 10001-2603,
Telephone No. (212) 613-5000, as counsel for purposes of
responding to the appeal.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

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

-against-

M-3091
Ind. No. 754/07

William Davidson,

Defendant.

-----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 July 24, 2007, for leave to prosecute the appeal as a poor person, on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied. (CPL 460.30 Subd. 1).

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 August 17, 2010.

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

-----x
William Lugo,
Plaintiff,

M-2966

-against-

Index No. 300682/08

Purple and White Markets, Inc., etc.,
Defendants,

White Rose, Inc., et al.,
Defendants-Appellants.

- - - - -
White Rose, Inc., et al.,
Third-Party Plaintiffs-Appellants,

-against-

Index No. 84169/08

FICA Transportation, Inc.,
Third-Party Defendant-Respondent.

-----x
Defendants/third-party plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about August 24, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the December 2010 Term. (See M-3306, 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 August 17, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----x
William Lugo,
Plaintiff,

M-3306

-against-

Index No. 300682/08

Purple and White Markets, Inc., etc.,
Defendants,

White Rose, Inc., et al.,
Defendants-Appellants.

- - - - -
White Rose, Inc., et al.,
Third-Party Plaintiffs-Appellants,

-against-

Index No. 84169/08

FICA Transportation, Inc.,
Third-Party Defendant-Respondent.

-----x
Third-party defendant-respondent having moved for leave to file a late notice appeal in connection with the order of the Supreme Court, New York County, entered on or about August 24, 2009, 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 denied. (See M-2966, 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 August 17, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Henry Phipps Plaza South Assoc.,
Petitioner-Landlord-Respondent,

-against-

M-2853
Index No. 570347/09

Sylvia Peterson,
Respondent-Tenant-Appellant,

-and-

Jonnee Peacock,
Respondent-Appellant.

-----X
Respondents Sylvia Peterson and Jonnee Peacock having moved for leave to appeal to this Court from the decision and order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about March 11, 2010, 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.

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 August 17, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,
Jonh W. Sweeney, Jr.
Eugene Nardelli
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
In the Matter of a Family Offense
Proceeding Under Article 8 of the
Family Court Act.

Namissa D.,
Petitioner-Respondent,

M-2487
Docket No. O-08204/08

-against-

Al Hassana K.,
Respondent-Appellant.
-----X

Respondent-appellant having renewed his motion for leave to
prosecute, as a poor person, the appeal from the order of the
Family Court, New York County, entered on or about August 20,
2009, for assignment of counsel, a free copy of the transcript,
and related relief,

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

Ordered that the motion is denied.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
James M. McGuire
Rolando T. Acosta
Helen E. Freedman, Justices.

-----X
Lennar Corporation,

Petitioner-Respondent,

-against-

M-1531
Index No. 600662/10

Workscape, Inc.,

Respondent-Appellant.
-----X

Respondent-appellant having moved, pursuant to CPLR 5519(c), for a stay of all proceedings pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about March 22, 2010, and for other relief,

Now, upon reading and filing the papers with respect to the motion, and upon reading and filing the stipulation of the parties hereto, dated May 24, 2010, and due deliberation having been had thereon,

It is ordered that the motion is deemed withdrawn.

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 August 17, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
James M. McGuire
Karla Moskowitz
Helen E. Freedman, Justices.

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

Respondent,

-against-

M-2414
Index No. 570779/09

Maureen Miller,

Defendant-Appellant.
-----X

Defendant having moved for leave to appeal to this Court from the order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about November 30, 2009, and for leave to prosecute said appeal as a poor person,

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 August 17, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
Eugene Nardelli
Helen E. Freedman, Justices.

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

-against-

M-2804
Ind. No. 1321/02

Andre Jeffries, also known as
Jerry Miles,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on May 19, 2009 (Appeal No. 583), unanimously affirming a judgment of the Supreme Court, Bronx County (Martin Marcus, J.), rendered on March 15, 2005,

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

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

It is ordered that said application is denied.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

Present: Hon. Richard T. Andrias,	Justice Presiding,
David B. Saxe	
John W. Sweeny, Jr.	
David Friedman	
Nelson S. Román,	Justices.

-----X
Laura Govan,
Plaintiff,

-against-

M-2887
Index No. 14666/94

Ft. Sheri Realty Co.,
Defendant.
-----X

An order of this Court having been entered on March 30, 2010 (M-389), inter alia, dismissing plaintiff's appeal from the order of the Supreme Court, Bronx County, entered on or about January 16, 2008,

And plaintiff having moved for the reinstatement of her 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.

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 August 17, 2010.

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

-----X
Mitchell E. Saft, et al.,
Plaintiffs,

-against-

M-2952
Index No. 112848/04

111 Chelsea, LLC, et al.,
Defendants.

- - - - -
Doubleclick, Inc.,
Third-Party Plaintiff-Respondent,

-against-

Index No. 591253/04

Adco Electrical Corporation,
Third-Party Defendant-Appellant.

- - - - -
JLS Industries, Inc., etc.,
Second Third-Party Plaintiff,

-against-

Index No. 590085/05

Adco Electrical Corporation,
Second Third-Party Defendant.

-----X
Third-Party defendant-appellant, Adco Electrical Corporation, having moved for a stay of trial pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about September 11, 2009 (mot. seq. no. 003),

Now, upon reading and filing the papers with respect to the motion, and the correspondence from McCabe, Collins, McGeough & Fowler, LLP. (Patrick M. Murphy, of counsel) dated June 22, 2010, and due deliberation having been had thereon,

August 17, 2010

It is ordered that the motion and the notice of appeal are deemed withdrawn in accordance with the aforesaid correspondence the underlying action having been settled.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

-----X
PT Kertas Nusantara, etc.,
Petitioner-Appellant,

-against-

M-3098
Index No. 603190/09

Ekman & Co., A.B.,
Respondent-Respondent.
-----X

An appeal having been taken to this Court by petitioner-appellant from an order of the Supreme Court, New York County, entered on or about March 10, 2010,

And retained counsel, Richard A. Cirillo, Esq., having moved for an order relieving him as appellant's counsel, and for an enlargement of time in which to perfect 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, with leave to renew, upon a demonstration of service of the moving papers upon petitioner-appellant and the attorneys for respondent-respondent.

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 August 17, 2010.

PRESENT - Hon. David B. Saxe,	Justice Presiding
David Friedman	
Eugene Nardelli	
Karla Moskowitz	
Rosalyn H. Richter,	Justices.

-----X
In the Matter of the Commitment of
Guardianship of

Shavenon Edwin N., also known as
Baby Boy N.,

A Dependent Child under 18 Years
of Age Pursuant to §384-b
of the Social Services Law,

- - - - -
Cardinal McCloskey Services,
Petitioner-Respondent,

M-2817
Docket No. B-5787/09

Miledy N.,
Respondent-Appellant,

Francisco N.,
Respondent-Appellant.

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

-----X

Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about March 15, 2010, and for assignment of counsel, a free copy of the transcript, and related relief,

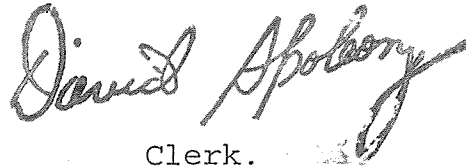
Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and § 1120 of the Family Court Act, Dora M. Lassinger, Esq., 6 Howland Road, East Rockaway, NY 11518, Telephone No. (516) 887-8987, as counsel for purposes of prosecuting the appeal;
(2) directing the Clerk of said Family Court to have transcribed

August 17, 2010

the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:



Clerk.

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

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 August 17, 2010.

PRESENT -Hon. David B. Saxe, Justice Presiding
David Friedman
Eugene Nardelli
Karla Moskowitz
Rosalyn H. Richter, Justices.

-----X
In the Matter of the Commitment of
Guardianship of

Shavenon Edwin N., also known as
Baby Boy N.,

A Dependent Child under 18 Years
of Age Pursuant to §384-b
of the Social Services Law,

- - - - -
Cardinal McCloskey Services,
Petitioner-Respondent,

M-2819
Docket No. B-5787/09

Francisco N.,
Respondent-Appellant,

Miledy N.,
Respondent-Appellant.

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

-----X

Respondent-appellant father having moved for leave to
prosecute, as a poor person, the appeal from an order of the
Family Court, Bronx County, entered on or about March 15, 2010,
and for assignment of counsel, a free copy of the transcript, and
related relief,

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

Ordered that the motion is granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and
§ 1120 of the Family Court Act, Neal D. Futerfas, Esq., 50 Main
Street, Suite 1000, White Plains, NY 10106, Telephone No.
(914)682-2171, as counsel for purposes of prosecuting the appeal;
(2) directing the Clerk of said Family Court to have transcribed

August 17, 2010

the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the State of New York from funds available therefor¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:



Clerk.

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

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 August 17, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,
John W. Sweeny, Jr.
Eugene Nardelli
Helen E. Freedman, Justices.

-----X
Lizbeth O'Keefe,
Plaintiff-Appellant,

-against-

M-2155
M-2273
Index No. 570417/08

Citibank, N.A. and Citicorp Mortgage,
Inc.,
Defendants-Respondents,

-and-

Kirschenbaum & Kirschenbaum, P.C.,
et al.,
Defendants.

-----X
An order of this Court having been entered March 16, 2010 (M-291), denying plaintiff leave to appeal to this Court from the order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about August 5, 2009,

And plaintiff having moved (M-2155), for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the aforesaid decision and order of this Court entered on March 16, 2010,

And defendants having cross-moved (M-2273), for imposition of sanctions and costs, and an order enjoining plaintiff from filing any further motions,

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 (M-2155) and cross motion (M-2273) are 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 August 17, 2010.

Present - Hon. David B. Saxe, Justice Presiding,
James M. Catterson
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
The People of the State of New York
ex rel. Jason Berry,

Petitioner,

-against-

Warden, Edmond Duffy, Robert N.
Davoren Center,

M-2075
Ind. No. 751/05
NYSID 7214430J

Respondent(s).

-----X

The above-named petitioner having moved for, inter alia, a writ of habeas corpus to be issued from this Court,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from petitioner dated May 21, 2010, and due deliberation having been had thereon,

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

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 August 17, 2010.

Present - Hon. David B. Saxe, Justice Presiding,
James M. Catterson
Dianne T. Renwick
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Sharon S.,

Plaintiff-Respondent,

-against-

M-2102
Index No. 350516/06

Gregg S.,

Defendant-Appellant.
-----X

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about June 16, 2009,

And counsel for defendant-appellant, Blank Rome LLP (Leonard G. Florescue, of counsel) having moved to be relieved as counsel in connection with the aforesaid appeal, and for other relief,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from defendant-appellant's counsel dated April 21, 2010, the stipulation between the parties and counsel dated April 21, 2010, and due deliberation having been had thereon,

It is ordered that the motion and the notice of appeal are deemed withdrawn in accordance with the aforesaid correspondence and stipulation, the underlying action having been settled.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme
Court held in and for the First Judicial Department
in the County of New York on August 17, 2010.

PRESENT - Hon. David B. Saxe, Justice Presiding,
James M. Catterson
Karla Moskowitz
Leland G. DeGrasse
Sheila Abdus-Daniels, Justices.

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

-against-

M-2865
Ind. No. 3339/08

Edwin Medina,
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute,
as a poor person, the appeal from the judgment of the Supreme Court,
New York County, rendered on or about June 5, 2009, for leave to have
the appeal heard on the original record and upon a reproduced
appellant's brief, and for related relief,

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

It is ordered that the motion is 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 10 reproduced copies of
such brief, together with the original record, with this Court.

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

Steven Banks, Esq., 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 120
days from the date of filing of the record.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
Angelica Lopez, an infant by her parent
and natural guardian, Jose Lopez and
Jose Lopez, individually,
Plaintiffs-Appellants,

-against-

M-3403
Index No. 104601/02

The City of New York and Consolidated
Edison Company of New York, Inc.,
Defendants-Respondents.
-----X

Plaintiffs-appellants having moved for a stay of trial herein pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about May 7, 2010 (mot. seq. no. 007),

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 continuing the interim relief granted on the terms and conditions contained in the order of a Justice of this Court dated July 2, 2010.

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 August 17, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

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

-against-

M-3399
Index No. 602454/02

Corning Incorporated,
Defendant-Appellant,

-and-

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

-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about December 4, 2009 (mot. seq. no. 060),

And defendant-appellant having moved for leave to redact and file, under seal, certain portions of the briefs on 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 continuing the interim relief granted by an order of a Justice of this Court dated July 2, 2010.

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 August 17, 2010.

Present - Hon. David Friedman,	Justice Presiding,
James M. Catterson	
Karla Moskowitz	
Dianne T. Renwick	
Sheila Abdus-Salaam,	Justices.

-----x
Kirsten A. Turner, et al.,

Plaintiffs-Respondents,

-against-

M-3337
Index No. 301504/07

Benycol Transportation Corp., et al.,

Defendants-Appellants.

-----x

Defendants-appellants having moved for a stay of trial herein pending hearing and determination of the appeal from the order of the Supreme Court, Bronx County, entered on or about December 28, 2009,

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

It is ordered that the motion is granted.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

Present - Hon. David Friedman,	Justice Presiding,
James M. Catterson	
Karla Moskowitz	
Dianne T. Renwick	
Sheila Abdus-Salaam,	Justices.

-----X
Cynthia Warren,

Plaintiff-Appellant,

-against-

M-3257
Index No. 104197/06

New York Presbyterian Hospital,

Defendant-Respondent.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, entered on or about October 23, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to on or before October 4, 2010 for the December 2010 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 August 17, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
D&R Global Selections, S.L.,

Plaintiff-Respondent,

-against-

M-3323
Index No. 603732/07

Bodega Olegario Falcon Piñeiro,

Defendant-Appellant.
-----X

Appeals having been taken to this Court from the judgment of the Supreme Court, New York County, entered on or about June 4, 2008 and the order of said Court entered on or about November 12, 2009, respectively,

Defendant-appellant having moved for an order vacating/terminating a certain restraining notice pending hearing and determination of the aforesaid appeals,

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

It is ordered that the motion is granted to the extent of staying enforcement of judgment on condition the appeals, which are sua sponte consolidated, are perfected for the December 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----x
Steven Cole,
Plaintiff-Respondent,

-against-

M-3379

Jason Mraz,
Defendant-Respondent,

Index No. 112295/05

Delicate Productions, Inc.,
Defendant-Appellant,

-and-

Clear Channel Entertainment, et al.,
Defendants.

- - - - -
Jason Mraz,
Third-Party Plaintiff-Respondent,

-against-

Delicate Productions, Inc.,
Third-Party Defendant-Appellant,

Index No. 590743/06

Clear Channel Entertainment, et al.,
Third-Party Defendants,

-and-

The Beacon Theatre, et al.,
Third-Party Defendants-Respondents.

- - - - -
[And a second third-party action.]

-----x
Separate appeals having been taken to this Court from orders of the Supreme Court, New York County, entered on or about July 23, 2009 (mot. seq. no. 008) and April 12, 2010 (mot. seq. no. 009), respectively,

August 17, 2010

And defendant-appellant Delicate Productions, Inc. having moved for a stay of trial scheduled for September 16, 2010, pending hearing and determination of the aforesaid appeals,

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

It is ordered that the motion is granted.

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 August 17, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
Administrative Proceeding in the Matter
of

Raimund Johann Abraham,

Deceased.

M-3254

File No. 2010-1381

Una Marie Abraham,
Petitioner-Respondent,

Joan Waltemath,
Objectant-Appellant.

-----X
An appeal having been taken to this Court from the order of the Surrogate's Court, New York County, entered on or about June 7, 2010,

And objectant-appellant having moved in the nature of a preliminary appellate injunction pursuant to CPLR 5518 precluding petitioner-respondent from disposing of decedent's property pending hearing and determination of the aforesaid appeal,

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

It is ordered that the motion is granted to the extent of granting a preliminary appellate injunction barring the estate from selling any artwork on condition the appeal be perfected on or before October 4, 2010 for the December 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

Present - Hon. David Friedman,	Justice Presiding,
James M. Catterson	
Karla Moskowitz	
Dianne T. Renwick	
Sheila Abdus-Salaam,	Justices.

-----X
Joanne Feaster,

Plaintiff-Respondent,

-against-

M-3487
Index No. 308385/08

Thami Boulabat, et al.,

Defendants-Appellants.
-----X

Defendants-appellants having moved for a stay of trial pending hearing and determination of the appeal from the order of the Supreme Court, Bronx County, entered on or about April 20, 2010,

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

It is ordered that the motion is granted.

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 August 17, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
Edward A. Kaminsky,

Plaintiff-Appellant,

-against-

M-3290
Index No. 602540/09

Herrick, Feinstein LLP,

Defendant-Respondent.
-----X

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about March 24, 2010,

And defendant-respondent having moved for dismissal of the appeal upon the grounds that plaintiff has not timely filed a record on appeal in compliance with 22 NYCRR § 600.5(d),

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

It is ordered that the motion to dismiss the appeal is granted unless plaintiff perfects the appeal on or before October 4, 2010 for the December 2010 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
Ted Moustakis,
Plaintiff-Appellant,

-against-

M-3440
Index No. 117179/07

Christie's Inc., et al.,
Defendants-Respondents.
-----X

Plaintiff-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 22, 2009 (Appeal No. 1847), said motion presently pending before this Court,

And plaintiff-appellant having moved for an enlargement of time in which to reply to defendants' opposition papers to said motion for leave to appeal to the Court of Appeals,

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

It is ordered that the motion is granted to the extent of enlarging plaintiff's time to reply to defendants' opposing papers to thirty days from the date 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 August 17, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
Mitchell Kupfer,
Plaintiff,

-against-

M-3281
Index No. 100075/10

Samuel Kupfer, Seward Park Housing
Corporation,
Defendants.

-----X

Plaintiff having moved pursuant to CPLR 5704(a) for relief denied him by a Justice of the Supreme Court, New York County, on or about June 21, 2010,

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

It is ordered that the motion is denied, without prejudice to a motion, on notice, in the Supreme 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 August 17, 2010.

PRESENT - Hon. David Friedman, Justice Presiding
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Daniels, Justices

-----X
The People of the State of New York
ex rel. Kevin K. Tung Esq. on behalf of
Kevin You,
Defendant/Petitioner-Appellant,

-against-

M-3055
Index No. 106854/10

Commissioner of the New York City
Department of Corrections,
Respondent-Respondent.
-----X

Relator-appellant having moved for an order reducing defendant's bail pending hearing and determination of the appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about May 27, 2010 which denied the writ and dismissed the petition in connection with defendant's confinement, and related relief,

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

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

PRESENT - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Daniels, Justices.

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

-against-

M-3199
Ind. No. 1037/08

Kevin Rios,
Defendant-Appellant.

-----X
An order of this Court having been entered on February 9, 2010 (M-142) assigning Steven Banks, Esq., as counsel to prosecute defendant's appeal from the judgment of the Supreme Court, New York County, rendered on or about October 20, 2009; and a motion having been made to relieve such counsel, and for other relief,

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

It is ordered that 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 August 17, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
In the Matter of the Application of
Georgina Diaz,
Petitioner-Appellant,

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

M-2841
M-3204
Index No. 107689/09

Ricardo Elias Morales, as Chairman
of the New York City Housing Authority,
Respondent-Respondent.

-----X

Petitioner-appellant having moved (M-2841) for a stay of
eviction and for leave to prosecute, as a poor person, the appeal from
an order and judgment (one paper) of the Supreme Court, New York
County, entered on or about February 2, 2010, and for leave to have
the appeal heard on the original record and upon a reproduced
appellant's brief, and for other relief,

And respondent having cross moved (M-3204) to dismiss the
appeal for failure to timely prosecute,

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

It is ordered that the motion (M-2841) is granted to the
extent of permitting the appeal to be heard on the original record and
upon a reproduced appellant's brief, on condition that appellant serve
one copy of such brief upon the attorney for respondent and file ten
copies of such brief, together with the original record, with this
Court on or before November 8, 2010 for the January 2011 Term.
Appellant is permitted to dispense with payment of the required fee
for the subpoena and filing of the record. The interim relief
afforded appellant by order of a Justice of this Court dated May 25,
2010 is continued upon the terms and conditions contained therein.
The cross-motion (M-3204) is denied, with leave to renew, should
appellant fail to so perfect.

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 August 17, 2010.

Present:	Hon. David Friedman,	Justice Presiding,
	Karla Moskowitz	
	Diane T. Renwick	
	Helen E. Freedman	
	Nelson S. Román,	Justices.

-----X
In re John Whitfield,

Petitioner-Appellant,

-against-

M-1581

Index No. 401458/08

Stephen J. Moriello, Record Access
Officer, Individually and as a Member
of the New York City Department of
Corrections,

Respondent-Respondent.

-----X

Petitioner-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 March 2, 2010 (Appeal No. 2260),

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 August 17, 2010.

PRESENT - Hon. David Friedman, Justice Presiding
James M. Catterson
Karla Moskowitz
Dianne T. Renwick, Justices

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

Lea Sylver,
Petitioner,

-against-

M-3597
Index No. 402635/08

New York City Housing Authority,
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 February 10, 2009, to review a determination of respondent,

And petitioner having moved for leave to prosecute the proceeding as a poor person, upon the original record and reproduced petitioner's brief,

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 proceeding to be heard on the original record and upon a reproduced petitioner's brief, on condition that petitioner serve one copy of such brief upon the attorney for the respondent and file 10 copies of such brief, together with the original record, with this Court. Petitioner is permitted to dispense with payment of the required fee for the subpoena and filing of the record. Time to perfect proceeding enlarged to the December 2010 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 August 17, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
Elena Xenarios,

Plaintiff-Respondent,

-against-

Samuel Isshak, et al.,

Defendants-Appellants.
-----X

M-3589
M-3673
Index No. 117061/06

Plaintiff-respondent having moved for dismissal of the appeal from the judgment of the Supreme Court, New York County, entered on or about May 1, 2009,

And defendants-appellants having cross-moved for an enlargement of time in which to perfect the appeal,

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 to dismiss the appeal is granted unless the appeal is perfected on or before September 7, 2010 for the November 2010 Term; the transcript is deemed settled. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent serves a copy of this order upon appellant(s) within 10 days after the date of entry hereof. The cross motion for an enlargement of time to perfect the appeal is granted accordingly.

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 August 17, 2010.

PRESENT - Hon. James M. McGuire, Justice Presiding,
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Manuel Reis, et al.,
Plaintiffs-Respondents,

-against-

M-2700
Index No. 108539/04

Volvo Cars of North America, Inc., et al.,
Defendants,

Volvo Cars of North America, LLC, et al.,
Defendants-Appellants.
(And a third-party action)

-----X
Plaintiffs-respondents having moved for reargument and modification of the decision and order of this Court entered on May 4, 2010 (Appeal No. 1552),

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

It is ordered that the motion is denied without prejudice to further proceedings in Supreme 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 August 17, 2010.

Present - Hon. James M. McGuire,	Justice Presiding,
Dianne T. Renwick	
Rosalyn H. Richter	
Sallie Manzanet-Daniels,	Justices.

-----X

Manuel Reis, et al.,
Plaintiffs-Respondents,

-against-

Volvo Cars of North America, Inc.,	M-3040
et al.,	M-3392
Defendants,	Index No. 108539/04

Volvo Cars of North America, LLC,
et al.,
Defendants-Appellants.

[And a third-party action]

-----X

Plaintiffs-respondents having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 4, 2010 (Appeal No. 1552) [M-3040],

And defendants-appellants Volvo Cars of North America, LLC, et al. having cross-moved for leave to appeal to the Court of appeals from the aforesaid decision and order [M-3392],

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 and cross motion are denied.
(See M-2700, 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 August 17, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Pamela Wirth, et al.,

Plaintiffs-Appellants,

-against-

M-3781
Index No. 103735/08

Steven B. Krawitz, P.C., et al.,

Defendants-Respondents.
-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about July 12, 2010 (mot. seq. no. 001),

And plaintiffs-appellants having moved for a stay of all proceedings pending hearing and determination of the appeal,

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

It is ordered that the motion is granted on condition the appeal is perfected for the January 2011 Term.

ENTER:


*Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Claire Segree,
Plaintiff-Respondent,

-against-

M-3987
Index No. 118958/06

St. Agatha's Convent, et al.,
Defendants,

-and-

The New York Foundling Hospital,
Defendant-Appellant.
-----x

Defendant-appellant having moved for a stay of trial pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about April 16, 2010,

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

It is ordered that the motion is granted.

ENTER:


Clerk

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

BEFORE: Hon. DAVID FRIEDMAN
Justice of the Appellate Division

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

M-1415
Ind. No. 2678/97

-against-

CERTIFICATE
DENYING LEAVE

Alphonso T. Lester a/k/a John Francis
a/k/a Tyrone Lester a/k/a Kevin Howard,
Defendant

-----X

I, DAVID FRIEDMAN, a Justice of the Appellate Division,
First Judicial Department, do hereby certify that, upon
application timely made by the above-named defendant for a
certificate pursuant to Criminal Procedure Law, section 460.15,
and upon the record and proceedings herein, there is no question
of law or fact presented which ought to be reviewed by the
Appellate Division, First Judicial Department, and permission to
appeal from the order of the Supreme Court, New York County,
entered on or about December 10, 2009, is hereby denied. To the
extent that defendant seeks poor person relief and assignment of
counsel, that motion is hereby denied as academic.

Dated: New York, New York
July 21, 2010

ENTERED

AUG 17 2010



DAVID FRIEDMAN
Justice of the Appellate Division

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

BEFORE: Hon. DAVID FRIEDMAN
Justice of the Appellate Division

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

M-1406
Ind. No. 10328/88

-against-

CERTIFICATE
DENYING LEAVE

Alphonso T. Lester a/k/a John Francis
a/k/a Tyrone Lester a/k/a Kevin Howard,
Defendant. ~~10/10/09~~

-----X
I, DAVID FRIEDMAN, a Justice of the Appellate Division,
First Judicial Department, do hereby certify that, upon
application timely made by the above-named defendant for a
certificate pursuant to Criminal Procedure Law, section 460.15,
and upon the record and proceedings herein, there is no question
of law or fact presented which ought to be reviewed by the
Appellate Division, First Judicial Department, and permission to
appeal from the order of the Supreme Court, New York County,
entered on or about December 22, 2009, is hereby denied. To the
extent that defendant seeks poor person relief and assignment of
counsel, that motion is hereby denied as academic.

Dated: New York, New York
July 21, 2010

ENTERED

AUG 17 2010


DAVID FRIEDMAN
Justice of the Appellate Division

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

BEFORE: Hon. Helen E. Freedman
Justice of the Appellate Division

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

M - 530
Indictment. No.
3998/06

-against-

CERTIFICATE
GRANTING LEAVE

BENJAMIN SANTIAGO,

Defendant.

-----X

I, Helen E. Freedman, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to the Criminal Procedure Law §§ 450.15 & 460.15, and upon the record and proceedings herein, there are questions of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and that part of the motion seeking permission to appeal from the order of the Supreme Court, New York County, entered on or about January 14, 2010 is hereby granted.

That part of the motion seeking an order consolidating the appeal with the direct appeal from the judgment convicting

defendant is denied as moot (see *People v Santiago*, 72 AD3d 492 [2010]).



Hon. Helen E. Freedman
Associate Justice

Dated: July 19, 2010
New York, New York

ENTERED: **AUG 17 2010**

Notice: Within 15 days from the date hereon, an appeal must be taken, and this certificate must be filed with the notice of appeal. An appeal is taken by filing, in the Clerk's office of the criminal court in which the order sought to be appealed was rendered, a written notice in duplicate that appellant appeals to the Appellate Division, First Judicial Department (Section 460.10, subd. 4, CPL), together with proof that another copy of the notice of appeal has been served upon opposing counsel. The appeal must be argued within 120 days from the date of the notice of appeal, unless the time to perfect the appeal is enlarged by the court or a justice thereof.

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

BEFORE: Hon. Sheila Abdus-Salaam
Justice of the Appellate Division

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

M - 3251
Ind. No. 2240/06

-against-

CERTIFICATE
DENYING LEAVE

Charles Tjaden

Defendant.

-----X

I, Sheila Abdus-Salaam, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about February 11, 2010 is hereby denied.



Associate Justice

Dated: July 20, 2010
New York, New York

ENTERED: **AUG 17 2010**

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

BEFORE: Hon. Sheila Abdus-Salaam
Justice of the Appellate Division

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

M - 3155
Ind. No. 7483/03

-against-

CERTIFICATE
DENYING LEAVE

Kevin Dozier

Defendant.

-----X

I, Sheila Abdus-Salaam, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about April 20, 2010 is hereby denied.



Associate Justice

Dated: July 21, 2010
New York, New York

ENTERED: **AUG 17 2010**

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

BEFORE: Hon. Sheila Abdus-Salaam
Justice of the Appellate Division

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

M - 3171
Ind. No. 1998/94

-against-


CERTIFICATE
DENYING LEAVE

Theodore Simpson

Defendant.

-----X

I, Sheila Abdus-Salaam, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, Bronx County, entered on or about March 22, 2010 is hereby denied.



Associate Justice

Dated: July 21, 2010
New York, New York

ENTERED: **AUG 17 2010**

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

AUG 17 2010

David B. Saxe,	Justice Presiding,
David Friedman	
Eugene Nardelli	
Rosalyn H. Richter	
Sheila Abdus-Salaam,	Justices.

-----X

In the Matter of Paul S. Block
(admitted as Paul Stuart Block),
an attorney and counselor-at-law:

Departmental Disciplinary Committee	M-2003
for the First Judicial Department,	
Petitioner,	

Paul S. Block,
Respondent.

-----X

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Paul S. Block, was admitted to the Bar of the
State of New York at a Term of the Appellate Division of the
Supreme Court for the Second Judicial Department on July 19,
1989.

Alan W. Friedberg, Chief Counsel, Departmental
Disciplinary Committee, New York
(Stephen P. McGoldrick, of counsel), for petitioner.

Richard M. Maltz, for respondent.

M-2003 - July 27, 2009

IN THE MATTER OF PAUL S. BLOCK, AN ATTORNEY

PER CURIAM

Respondent Paul Stuart Block was admitted to the practice of law in the State of New York by the Second Judicial Department on July 19, 1989. At all times relevant to this proceeding, respondent maintained an office for the practice of law within the First Judicial Department.

On April 3, 2001, this Court suspended respondent for six months for deliberately deceiving clients (a husband and wife) through lies and fabrication of documents to corroborate those lies, and by neglecting the clients' affairs in violation of DR 1-102(A)(4), and 6-101(A)(3), respectively (*Matter of Block*, 282 AD2d 12 [2001]). By order entered November 29, 2001, this Court reinstated respondent to the practice of law, without a hearing, since the suspension was for no more than six months.

In February 2008, respondent was served with a notice and statement of charges alleging that he: 1) neglected a legal matter in violation of DR 6-101(A)(3); 2) repeatedly made misrepresentations to a client in violation of DR 1-102(A)(4) [conduct involving dishonesty, fraud, deceit or misrepresentation]; and 3) by committing the aforementioned conduct, engaged in conduct that adversely reflected on his fitness to practice law in violation of DR 1-102(A)(7). Respondent submitted an

answer to the charges in which he admitted the factual allegations, but denied that his actions constituted professional misconduct.

A Referee held a hearing and in a report sustained all three charges and recommended a one-year suspension. A Hearing Panel then heard oral argument and issued a report in which it affirmed the Referee's findings with respect to the sustained charges, but modified the recommended sanction by increasing the suspension to 18 months.

The Committee now moves pursuant to 22 NYCRR 603.4(d) and 605.15(e)(2), to disaffirm the reports of the Referee and Hearing Panel, only to the extent of their recommended sanctions and, instead, seeks a suspension of no less than four years. Respondent opposes and requests that this Court issue a six-month suspension.

The Referee found that in February 2006, respondent's law firm was retained by Parry Murray & Company, Ltd., a U.K.-based firm, to collect \$75,000 owed by Scalamandre Silks, Inc. In the nine months following his retention, respondent failed to institute litigation on behalf of this client and made repeated, deliberate misrepresentations concerning the status of the case via email to Eoin Campbell, Parry Murray's financial controller. Beginning in late May 2006, respondent misrepresented to Mr. Campbell that an action had been commenced. Respondent's

misrepresentations about the case continued into October 2006.

Mr. Campbell did not testify but several emails were introduced at the hearing. One such email was from Campbell to respondent seeking a copy of a default judgment respondent told him had been obtained against Scalamandre. Another email from Mr. Campbell stated, in part, "Please get me a copy of the judgement to me urgently. This is causing me a lot of problems and will cost someone their job on Friday unless we get that judgement." An email was sent on July 20, 2006 to Campbell from respondent promising to send a copy of the judgment which "will be ready early next week." On August 10, 2006, respondent emailed Campbell advising him, in relevant part:

"I believe we are close to gaining the release of funds to satisfy the debt. As often happens when a defendant sees that their assets are being taken, they try to appear in court and request a hearing to open up their original default which occurred when they did not appear.

I have to appear in court on August 17, 2006 for a hearing on this matter. I will immediately forward a copy of the judge's decision next week."

Respondent prepared a draft of an "Affidavit in Support" for Eoin Campbell, which respondent faxed to him on October 16, 2006 and which was characterized as supporting an application to the court for entry of a default judgment against Scalamandre.

In his February 2007 answer to the disciplinary complaint, respondent asserted that he had "advised the client of the nature

of the lawsuit that would need to be commenced," characterized his communications with Mr. Campbell as "unintentional miscommunication," and denied that he committed professional misconduct. It was not until he appeared for his sworn deposition almost nine months later in November 2007 that respondent changed his position, and acknowledged that he had made false representations to his client, that they were made as a result of stress, and that he had begun consulting with a psychiatrist during the week of the deposition for this problem.

The disciplinary charges filed herein were brought based upon information provided to the Disciplinary Committee by Edward Weissman, an attorney subsequently hired by Parry Murray to investigate the status of the matter. Weissman testified before the Referee that prior to being retained, he checked with the court system to see if, in fact, an action had been commenced, but could not find any such record. After he reported to Eoin Campbell, Campbell sent Weissman documents forwarded to Campbell by respondent. At that point Weissman was retained by Parry Murray to commence a lawsuit against Scalamandre. In addition, Weissman sent two letters to respondent on November 3 and November 10, 2006, demanding a refund of the \$4,000 retainer paid by Parry Murray. When respondent failed to respond to the letters, Weissman was forced to commence an action against respondent and his firm on behalf of Parry Murray. When Weissman

reported these events to the Disciplinary Committee in a letter dated December 1, 2006, he noted that Parry Murray "independently confirmed that neither Mr. Block nor his firm had commenced any lawsuit." Weissman testified that respondent finally repaid the retainer to Parry Murray, but not until after Weissman sent his letter to the DDC.

Respondent admitted before the Referee that he had repeatedly misled his client but asserted it was aberrational. Notably, he testified that some time in September or early October 2006, possibly Columbus Day (October 12), he telephoned Campbell and essentially admitted that he never commenced an action against Scalamandre. Thus, respondent's testimony was that he notified the client of his inaction well before Weissman filed his complaint with the DDC on December 1, 2006. According to respondent, the "Affidavit in Support" he faxed Eoin Campbell on October 16, 2006, was for the purpose of moving for a judgment in lieu of a complaint, which implicitly would have confirmed to the client that no action had been started, and not in support of a default judgment. Respondent testified further that he returned the retainer to Parry Murray in November, before Weissman's letter to the DDC had even been sent. As the Hearing Panel concluded, it is not clear from this record exactly when the amount of the retainer was repaid, only that it was.

In mitigation, respondent testified that he had consulted

with a psychiatrist, was taking medication for epilepsy, is the sole support for his wife and two children, has learned better organizational skills and ways of dealing with stress, has performed pro bono work through the Brooklyn Volunteer Lawyers' Alliance, and was sorry about the way he mishandled the collection matter. A character witness, Joseph Monteleone, Esq., who had known respondent for 16 years, testified regarding respondent's excellent professional reputation, but he was unaware of the basis of the disciplinary proceeding.

The Committee urged the Referee to suspend respondent for at least four years in view of, inter alia, his previous six-month suspension for the exact same misconduct and his false testimony before the Referee. Respondent's counsel suggested censure would be appropriate since the complainant, with the approval of his client, withdrew his complaint; the client had received a full refund from respondent; respondent cooperated fully with the Committee and expressed remorse; and he had not been motivated by personal gain.

In a report dated June 26, 2008, the Referee sustained all three charges and recommended respondent be suspended from the practice of law for one year.

During oral argument before the Hearing Panel, respondent's counsel, a partner in respondent's firm, stated that respondent had been monitored, and reiterated respondent's testimony that

the Parry Murray case was "aberrational" and had fallen "through the cracks." In response to questioning by the Panel, counsel admitted that respondent had not presented any evidence supporting a claim that respondent's epilepsy had affected his conduct in any way and that he was not making that argument; that the record indicated that respondent had not consulted with a therapist or performed pro bono work until after the charges had been brought; and that respondent had been "released from care" by that therapist.

At oral argument, the Committee argued for a stronger sanction than that suggested by the Referee but did not specify the length of the suspension sought. The Committee challenged the Referee's finding of remorse, citing the lack of evidence that respondent had, in fact, paid Parry Murray before the complaint had been filed, and his assertion in his answer that the misleading emails were "unintentional miscommunications."

In post-oral argument submissions to the Panel, the Committee recommended a four-year suspension, the same sanction it now seeks before this Court. Respondent repeated his request for a public censure, which the Hearing Panel found was "so inadequate as to make us question Respondent's comprehension of the seriousness of his misconduct." He is currently seeking from this Court a six-month suspension.

In a report dated January 9, 2009, the Hearing Panel

confirmed the findings of fact and conclusions of law of the Referee, but recommended increasing the sanction from a one-year suspension to an 18-month suspension. The Panel began its analysis by noting "the striking similarity between the course of conduct now before us and the course of conduct for which Respondent was previously suspended, as described in this Court's opinion sanctioning Respondent for that misconduct:

In confirming the Hearing Panel's findings of fact and conclusions of law, we note that respondent's admitted neglect of the foreclosure action was aggravated by his deliberate oral and written misrepresentations in a protracted effort to cover up his delinquencies, including false assurances to his client as to the status of their case when, in fact, the matter was never commenced. Indeed, respondent went so far as to instruct his clients to appear in court on two separate occasions for a non-existent hearing, and to fabricate a letter, which he claimed was sent to a judge, and three proposed orders. It was not until his deposition before the DDC that respondent finally admitted his misbehavior. Such false statements evidence serious professional misconduct in violation of DR 1-102(A)(4) and 6-101(A)(3). The fact that respondent alleges that he did not intend to cause his clients harm and that he did not profit financially are not defenses (282 AD2d at [13-]14)."

Thus, the Panel concluded, the "chief aggravating factor" in this matter is respondent's previous, similar misconduct. The Hearing Panel also determined that another important factor in aggravation was respondent's "lack of candor." While respondent characterized his conduct toward Parry Murray in his answer to

the complaint as "unintentional misrepresentation," the Panel found that the record showed "unequivocally that Respondent made repeated, intentional misstatements to his client." Unlike the Referee, however, who did not make an explicit finding as to credibility, the Hearing Panel concluded that respondent's testimony at the hearing -- that he informed his client in either September or October 2006 that a complaint had not been filed -- was not credible.

In addressing mitigation, the Panel acknowledged that respondent was not motivated by personal gain, but gave "limited credit" to his claims based on lack of harm to his client and to his pro bono activity, which he commenced only after he was notified of the charges filed against him.

With the permission of the Committee Chair, the Committee now moves for disaffirmance of the sanction recommendation of both the Referee (one-year suspension) and the Hearing Panel (18-month suspension), and, instead seeks a suspension of no less than four years. The Committee contends that the additional six months recommended by the Panel is still insufficient in view of the absence of compelling factors in mitigation, respondent's prior suspension for virtually identical misconduct, and the Panel's findings that respondent gave misleading information to the Committee during its investigation and testified falsely at the hearing.

In support of a six-month suspension, respondent contests the finding by both the Referee and Hearing Panel that his handling of his client's case constituted neglect in violation of DR 6-101(A) (3) under charge 1, because he did not violate a statute of limitations or any deadline, and his client's case was not prejudiced by his failure to file any action for nine months. Specifically, he argues that in his almost 20 years of practice, he has had only "two discrete" instances of neglect, both of which occurred approximately eight years apart. With regard to this matter, he claims he realized, although not promptly, that he should fix the situation, and not make the same mistake twice.

Respondent contends further that the Hearing Panel relied upon hearsay and inconclusive circumstantial evidence in concluding that he testified falsely when he said that he disclosed his neglect to Campbell before the filing of the disciplinary complaint. Respondent points out that Campbell was never called to testify, so that respondent's testimony was uncontroverted by anyone with personal knowledge of their conversations. Moreover, he avers that the testimony of Parry Murray's new lawyer, Weissman, was based solely on hearsay, and the October 2006 emails pre-date Columbus Day, when respondent believes he had the phone conversation with Campbell. Hence, respondent contends, there can be no finding that he testified falsely before the Referee and, thus, his admission to Campbell

that he neglected the legal matter should be considered in mitigation.

Respondent asserts further that the Hearing Panel, without explanation, dismissed evidence of his cooperation and his expressions of remorse. He notes that the Referee, who heard him testify, did not make any observation that he was not remorseful. In support of his claim that there was a lack of harm to the client he notes that the legal fee was repaid, an action was commenced by new counsel, the matter was then quickly settled, and the client withdrew the disciplinary complaint against respondent. Thus, respondent concludes that contrary to the contentions of the Committee and the findings of the Hearing Panel, the purported aggravating circumstances are not supported by the evidence.

Respondent contends that his behavior was not so egregious as to warrant anything more than a six-month suspension (see *Matter of Hershberg*, 235 AD2d 1 [1997] [six-month suspension for neglecting two legal matters and misrepresentation of status of case to two clients]). Furthermore, he suggests making his reinstatement conditional upon him providing both the name of a mentor to monitor or supervise his practice, and a report of a professional establishing that he is able to handle the stress of a busy law practice.

We conclude that, contrary to respondent's contention, his

complete failure over the course of nine months to commence an action on behalf of his client is a clear example of neglect in violation of DR 6-101(A)(3), and it is irrelevant whether or not the statute of limitations had expired. Indeed, in the previous disciplinary proceeding brought against respondent, he admitted that his failure to commence his client's foreclosure action constituted neglect in violation of DR 6-101(A)(3), and the action was not time barred (282 AD2d 12). Accordingly, in light of respondent's admissions and the evidence presented, the findings of fact and conclusions of law sustaining the three charges of professional misconduct in violation of DR §§ 1-102(A)(4), 6-101(A)(3) and 1-102(A)(7) are confirmed.

Whether respondent testified falsely before the Referee is something that, on this record, without testimony from Eoin Campbell, cannot be conclusively determined. While the emails from early October 2006 and Weissman's testimony suggest that the purported telephone conversation never occurred, based upon a fair preponderance of the evidence presented, it cannot be concluded that respondent testified falsely during the hearing. Accordingly, the Panel's finding, in aggravation, that respondent testified falsely before the Referee cannot, on this record, be confirmed.

The only issue remaining is the appropriate length of respondent's suspension. When assessing prior precedent

involving the appropriate discipline to impose, certain relevant factors are considered including: the number of legal matters neglected, how long the neglect lasted, misrepresentations to the client, and the amount and type of previous discipline imposed. Here, respondent neglected one legal matter and misrepresented the status of the case to his client, which conduct was aggravated by a prior six-month suspension for virtually the same misconduct.

"[I]n cases where the neglect [of legal matters] has been combined with misrepresentation of the status of the case to the client or lack of candor before the Committee, the term of suspension has generally been longer than one year" (*Matter of Siegel*, 193 AD2d 181, 185 [1993] [attorney suspended for three years for, inter alia, neglecting four legal matters for substantial period of time, for misrepresenting status of case and three prior Admonitions]; see *Matter of LeBow*, 285 AD2d 28 [2001] [18-month suspension for neglecting one legal matter, failing to inform client of status of case but did not misrepresent status, failing to cooperate with DDC investigation, false testimony before Referee, lack of remorse, and one prior Admonition; *Matter of Gill*, 225 AD2d 170 [1996] [three-year suspension for neglecting two legal matters, manufacturing fictitious answering papers, and making oral and written misrepresentations to client]).

In a recent case, *Matter of Alperin*, 66 AD3d 309 (2009), this Court suspended an attorney for two years for engaging in a "pervasive pattern of misconduct by deceiving his firm and four of its clients concerning work that he completely failed to perform in regard to five separate cases" (310). The attorney admitted also engaging in a "pattern of deception to conceal his neglect of matters assigned to him" (*id.*)

Although the misconduct at issue in this proceeding involves one legal matter extending over a period of nine months, the circumstances are disturbingly similar to his previous misconduct, and suggest that he had not learned from his prior discipline. We also note that in the 2001 disciplinary proceeding, respondent testified that he and his firm had taken steps to reduce and manage more effectively his caseload, and had increased supervision by senior partners. Yet, approximately five years after his six-month suspension expired, and despite being monitored by his firm (according to a named partner), respondent committed the misconduct at issue.

Respondent has also offered remorse, but he has expressed it in such a fashion as to indicate that he does not appreciate the seriousness of his misconduct. He essentially counterbalances his contrition by repeatedly emphasizing the fact that the client withdrew the complaint against him and that no harm came to the

client.¹

The Committee's request for a suspension of no less than four years appears too harsh, particularly since we cannot conclude that respondent presented false testimony before the Referee. On the other hand, respondent's suggestion of a six-month suspension overlooks that he has already been suspended for six months for almost the same exact misconduct. We thus conclude that a more severe sanction is necessary, and that the Hearing Panel's recommendation of an 18-month suspension is appropriate.

Accordingly, the Hearing Panel's finding that respondent testified falsely at the hearing is found not to be supported, but the Committee's motion to disaffirm is granted to the extent of rejecting the Referee's sanction recommendation and, otherwise, the findings of fact and conclusions of law of the Hearing Panel are confirmed, and respondent is suspended from the practice of law for 18 months.

All concur.

Order filed.

¹ While no legal prejudice came to the client, in evidence was an email from Campbell to respondent "urgently" asking for a copy of the default judgment because the situation was causing him a lot of problems and it was going to "cost someone their job on Friday unless we get that judgement."

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

AUG 17 2010

Luis A. Gonzalez,	Presiding Justice,
David B. Saxe	
Karla Moskowitz	
Sheila Abdus-Salaam	
Nelson S. Román,	Justices.

-----x

In the Matter of Robert A. Walters
(admitted as Robert Anthony Walters),
an attorney and counselor-at-law:

Departmental Disciplinary Committee	M-5602
for the First Judicial Department,	
Petitioner,	

Robert A. Walters,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Robert A. Walters, was admitted to the Bar of
the State of New York at a Term of the Appellate Division
of the Supreme Court for the First Judicial Department on
July 6, 1987.

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

Pagan & Pagan (Ramon W. Pagan, of counsel),
for respondent.

M-5602 (January 26, 2010)

In the Matter of Robert A. Walters, An Attorney

Per Curiam

Respondent Robert A. Walters was admitted to the practice of law in the State of New York by the First Judicial Department on July 6, 1987, as Robert Anthony Walters. At all times relevant to this proceeding, respondent has maintained an office for the practice of law within the First Judicial Department.

On January 3, 2008, the Departmental Disciplinary Committee filed formal charges against respondent alleging three violations of the Code in that respondent engaged in conduct prejudicial to the administration of justice by failing to cooperate with the Committee's investigation into a client's complaint in violation of DR 1-102(A)(5); engaged in conduct in violation of DR 2-110(A)(3) by failing to return the client's unearned retainer in a criminal matter; and engaged in conduct with respect to that client which adversely reflected upon his fitness as a lawyer in violation of DR 1-102(A)(7). Respondent did not formally answer the charges, but admitted them at the hearing.

On August 7, 2008, the Committee filed supplemental charges alleging four Code violations in that respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of DR 1-102(A)(4), by falsely stating to a Supreme Court Justice the amount of the legal fee he received in a

criminal matter and falsely inducing a client to submit an untrue affidavit of indigency, and that by engaging in this misconduct respondent engaged in conduct prejudicial to the administration of justice in violation of DR 1-102(A)(5) and which adversely reflected upon his fitness as a lawyer in violation of DR 1-102(A)(7). Respondent did not formally answer the supplemental charges, but admitted at the hearing that he had falsely stated to the Judge the amount of the legal fee he had received, but denied causing his client to execute a false affidavit.

The Referee held a hearing and by report dated June 10, 2009, sustained all of the charges and recommended a two-year suspension. Regarding the first set of charges, the Referee found that respondent had wrongfully failed to refund to his client the sum of \$13,500, a retainer she had paid him in January 2004. She had terminated the engagement in March 2004 but respondent had failed to communicate with her, so she filed a complaint with the Committee¹. Although respondent asserted before the Referee that he had earned \$5,000 of that retainer, the Referee found that respondent had not offered any support or explanation for that assertion. With respect to the supplemental

¹The record shows that the Committee admonished respondent for failing to refund the retainer, and that only after the client filed a second complaint seeking the refund did respondent refund a portion of the retainer, with the full amount only eventually refunded over five years after the client had first paid respondent.

charges, the Referee found that respondent had falsely stated to a Judge that he had received \$5,500 as his legal fee for, representing a defendant in a criminal case, when in fact respondent had been paid a total of \$21,500 for his services and for expert services. Respondent had explained that he misled the court because he wanted the court to approve 18-B funds to pay for a suppression hearing transcript, expert review, and possibly investigative services in order to best represent his client, whom he believed to be indigent (the \$21,500, which had been spent, having been paid by the defendant's fiancé), and that he believed the Judge would be disinclined to approve the funds if the Judge was informed of the \$21,500 retainer. While respondent denied lying about his client's indigency and that he had falsely induced his client to submit an untrue affidavit to the Judge claiming that the client was indigent, the Referee sustained that charge.

A majority of the Hearing Panel confirmed the Referee's factual findings and conclusions of law as to all charges except falsely inducing a client to submit an untrue affidavit of indigency and engaging in conduct prejudicial to the administration of justice, which they found had not been proven. The Panel departed from the Referee's recommendation of a two-year suspension, with a majority of the members recommending a one-year suspension and a minority recommending a suspension of

between 90 days and six months.

The Committee seeks to confirm the findings of fact and conclusions of law of the Referee and the Hearing Panel (insofar as it confirmed the Referee), and a suspension of respondent for no less than one year. In opposition, respondent challenges only the sanction, arguing that, as he is a dedicated attorney who made an egregious mistake for his client's benefit, has shown remorse, and has repaid his client, the Court should impose a suspension of 90 days, or at most, six months.

The Hearing Panel's modification to the Referee's findings on liability, namely, not sustaining the supplemental charges concerning the client's affidavit of indigency, is correct and, therefore, this Court confirms the Hearing Panel's findings of fact and conclusions of law.

Regarding the sanction, while the sustained charges are serious and aggravated by two prior Admonitions², respondent presented compelling evidence in mitigation, including the testimony of four character witnesses with impressive backgrounds who spoke highly of respondent's reputation as a lawyer and for truth and veracity, and of his dedication to his clients, indigent criminal defendants who are represented by respondent

²In addition to the Admonition for failing to refund the client's retainer, respondent received an Admonition in 2004 relating to a dispute that he had regarding a subleased condominium apartment and delinquency in making payments.

through the 18B Panel. It was this dedication which, in a misguided attempt to help his client, apparently influenced respondent's decision to lie to the Judge about the retainer amount, a decision which respondent acknowledges was unjustified and which he deeply regrets. With respect to the retainer, respondent repaid half the retainer by the time of the hearing and thereafter repaid the remainder. Although this does not excuse respondent's conduct, it does reflect an absence of malice and distinguishes this case from more egregious ones involving the failure to return unearned fees (see e.g. *Matter of Alejandro*, 65 AD3d 63 [2009], *appeal dismissed* 13 NY3d 788 [2009], *lv denied* 13 NY3d 714 [2009]; *Matter of Benick*, 293 AD2d 176 [2002]; compare *Matter of Johannes*, 66 AD3d 39 [2009]; *Matter of Kleefield*, 22 AD3d 94 [2005]).

Based upon the foregoing, we conclude that a six-month suspension is warranted.

Accordingly, the Committee's petition is granted to the extent of confirming the findings of fact and conclusions of law of the Hearing Panel, and respondent is suspended from the practice of law for a period of six months.

All concur.

Order filed.

PM ORDERS

ENTERED

AUGUST 10, 2010

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 August 10, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Jacob Ahroner,
Plaintiff-Appellant-Respondent/
Appellant,

-against-

M-3836
Index No. 602192/03

Israel Discount Bank of New York,
etc., et al.,

Defendants-Respondents-Appellants/
Respondent.
-----x

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about July 13, 2009 (mot. seq. nos. 017, 018),

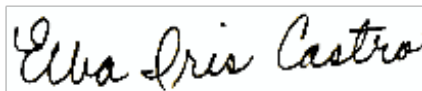
And an appeal having been taken by plaintiff from the order of said Court entered on or about March 10, 2010 (mot. seq. no. 021),

And plaintiff having moved for consolidation of the aforesaid appeals,

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

It is ordered that the motion is granted, and the Clerk is directed to calendar the appeal and cross appeal and the appeal for hearing together in the September 2010 Term.

ENTER:



Deputy 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 August 10, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Suzanne Dodson,
Plaintiff-Respondent,

-against-

M-3640
Index No. 350353/05

John Dodson,
Defendant-Appellant.
-----x

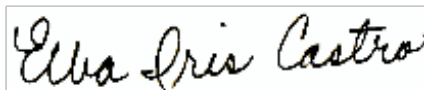
Separate appeals having been taken to this Court by defendant from the orders of the Supreme Court, New York County, entered on or about October 24, 2008 and May 5, 2009, respectively,

And plaintiff-respondent having moved for an order dismissing the aforesaid appeals, or for alternative 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 respondent to file the brief and a supplemental appendix on or before August 18, 2010, with leave to appellant to file a reply brief on or before August 27, 2010, without prejudice to respondent addressing the issue on appeal. The motion is otherwise denied. Sua sponte, the Clerk is directed to calendar the appeals for hearing together in the first week of the September 2010 Term.

ENTER:



Deputy 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 August 10, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x

Success, LLC, et al.,
Plaintiffs-Respondents,

-against-

Stonehenge Capital Company, LLC, et al., M-3500
Defendants-Appellants, Index No. 117138/06

Alan Brown, et al.,
Defendants-Respondents,

John Doe, Inc., etc., et al.,
Defendants.

-----x

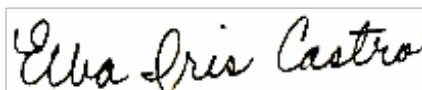
An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about February 23, 2010 (mot. seq. nos. 005, 006),

And defendant-appellant Stonehenge Capital Company, LLC having moved for leave to supplement the appendix on appeal to include a decision and order of said Court entered June 29, 2010,

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

It is ordered that the motion is granted, without prejudice to respondent(s) addressing the issue on appeal.

ENTER:



Deputy 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 August 10, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Sheila Leffler, et al.,

Plaintiffs-Appellants,

-against-

M-3747
Index No. 6458/03

Michael Feld, M.D.,

Defendant-Respondent.
-----x

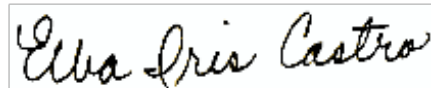
An appeal having been taken to this Court from the judgment of the Supreme Court, Bronx County, entered on or about February 23, 2009,

And defendant-respondent having moved for an order striking plaintiffs-appellants' appendix for failure to include all material relevant to the appeal and for dismissal of said appeal or for alternative 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. Sua sponte, defendant-respondent is directed to file the responding brief for the October 2010 Term, with leave to respondent to file a supplemental appendix, if so advised.

ENTER:



Deputy 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 August 10, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Trayvon Ward, an infant by his Natural
Guardian, Troy Ward and Troy Ward,
Individually,

Plaintiffs-Appellants,

-against-

M-3631
Index No. 15810/05

New York City Health & Hospitals
Corporation,

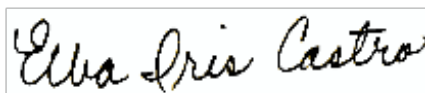
Defendant-Respondent.
-----x

Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about October 8, 2008,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to on or before September 7, 2010 for the November 2010 Term.

ENTER:



Deputy 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 August 10, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
 Helen E. Freedman
 Rosalyn H. Richter
 Sallie Manzanet-Daniels
 Nelson S. Román, Justices.

-----x
Skilled Investors Inc.,

Plaintiff-Appellant-Respondent,

-against-

Weiser LLP,

Defendant-Respondent-Appellant.
-----x

M-3749
Index No. 601326/08

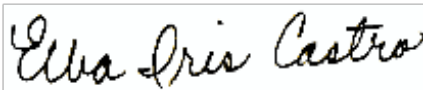
An appeal and cross appeal having been taken to this Court
from the order of the Supreme Court, New York County, entered on
or about July 2, 2009 (mot. seq. no. 001),

And defendant-respondent-appellant having moved for an order
enlarging the record on appeal,

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

It is ordered that the motion is denied, without prejudice
to raising arguments on the appeal.

ENTER:



Deputy 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 August 10, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Casa De Meadows Inc. (Cayman Islands),
et al.,
Plaintiffs-Respondents,

-against-

M-3745
Index No. 601685/07

Faith F. Zaman, et al.,
Defendants-Appellants.

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

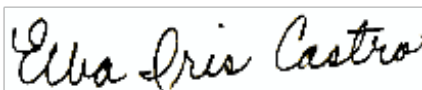
-----x
Appeals having been taken to this Court from the orders of the Supreme Court, New York County, entered on or about May 3, 2010 (mot. seq. no. 033), June 15, 2010 (mot. seq. nos. 010, 012, 013, 026) and June 30, 2010, respectively, and said appeals having been perfected,

And plaintiffs-respondents having moved for adjournment of the aforesaid appeals, 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 continuing the interim relief granted by the order of a Justice of this Court dated July 22, 2010, and the Clerk is directed to calendar the appeals for hearing together on September 7 or 8, 2010. The motion is otherwise denied, without prejudice to submission of a supplemental or respondents' appendix filed simultaneously with the respondents' brief.

ENTER:



Deputy 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 August 10, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Joshua Hannah, an infant under the age
of 14 years by his mother and natural
guardian Dionne Jackson,
Plaintiff-Appellant,

M-3016
Index No. 6286/04

-against-

Gail Chorney, M.D., et al.,
Defendants-Respondents.

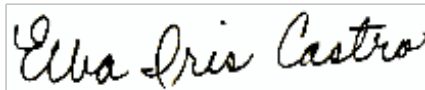
-----x

Defendants-respondents having moved for an order dismissing plaintiff's appeal from the order of the Supreme Court, New York County, entered on or about April 30, 2009, and for other relief,

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

It is ordered that the motion is denied, without prejudice to addressing the issue on the appeal. Sua sponte, the appeal is adjourned to the November 2010 Term.

ENTER:



Deputy Clerk

PM ORDERS

ENTERED

AUGUST 17, 2010

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 August 17, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
Richard Roach,

Plaintiff-Respondent,

-against-

M-3825
Index No. 100434/09

Elizabeth Benjamin,

Defendant-Appellant.
-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about November 27, 2009 (mot. seq. no. 002),

And plaintiff-respondent having moved for an order enlarging the record on appeal to include Exhibits B, C, D, G and H to the moving papers,

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

It is ordered that the motion is granted.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

Present - Hon. Leland G. DeGrasse,	Justice Presiding,
Helen E. Freedman	
Rosalyn H. Richter	
Sallie Manzanet-Daniels	
Nelson S. Román,	Justices.

-----x

Marcos Castellon, et al.,
Plaintiffs-Respondents/Respondents,

-against-

M-3862

John Reinsberg, et al.,
Defendants,

Index No. 7508/05

-and-

SMI Construction Management, Inc.,
Defendant-Appellant/Respondent-
Appellant.

- - - - -

SMI Construction Management, Inc.,
Third-Party Plaintiff-Appellant/
Respondent-Appellant,

-against-

Index No. 85164/06

Rose Demolition and Carting, Inc.,
Third-Party Defendant/Appellant-
Respondent.

- - - - -

[And a second third-party action]

-----x

An appeal having been taken to this Court by defendant/third-party plaintiff/second third-party defendant SMI Construction Management, Inc. from the order of the Supreme Court, Bronx County, entered on or about September 30, 2009,

And an appeal and cross appeal having been taken to this Court by third-party defendant Rose Demolition and Carting, Inc. and defendant/third-party plaintiff/second third-party defendant SMI Construction Management, Inc., respectively, from an order of said Court entered on or about April 13, 2010, respectively,

And defendant/third-party plaintiff/second third-party defendant SMI Construction Management, Inc. having moved for consolidation of the aforesaid appeals and cross appeal,

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

It is ordered that the motion is granted to the extent of directing the Clerk to calendar the appeal and the appeal and cross appeal for hearing together in the November 2010 Term, to which Term the appeal and cross appeal are adjourned, and for which Term movant is directed to perfect its appeal and file in its cross appeal. The attention of the parties is directed to Rule 600.11(d) with respect to a joint record and costs thereof.

ENTER:

A handwritten signature in black ink, appearing to read "David Apobony". The signature is written in a cursive, flowing style.

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 August 17, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
 Helen E. Freedman
 Rosalyn H. Richter
 Sallie Manzanet-Daniels
 Nelson S. Román, Justices.

-----x
Laura Vasquez, et al.,

Plaintiffs-Appellants,

-against-

M-3757
Index No. 115513/07

JRG Realty Corp., et al.,

Defendants-Respondents.
-----x

Consolidated appeals having been taken to this Court from
the judgment of the Supreme Court, New York County, entered on or
about October 1, 2009, and from the order of said Court entered
on or about November 25, 2009 (mot. seq. no. 003), respectively,

And plaintiffs-appellants having moved for an enlargement of
time in which to perfect the consolidated appeals,

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

It is ordered that the motion is granted to the extent of
enlarging the time to perfect the consolidated appeals to on or
before September 7, 2010 for the November 2010 Term.

ENTER:

A handwritten signature in black ink, appearing to read "David Apolony", written in a cursive style.

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 August 17, 2010.

PRESENT: Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----X

Landmark West! Inc., 91 Central Park
West Corporation and Thomas Hansen,
Petitioners-Appellants,

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

M-3591
Index No.650354/08

City of New York Board of Standards
and Appeals, New York City Planning
Commission, Hon. Andrew Cuomo, as
Attorney General of the State of New
York and Congregation Shearith Israel,
also described as the Trustees of
Congregation Shearith Israel,
Respondents-Respondents.

-----X

Petitioners-appellants having moved for, inter alia, an enlargement of time in which to perfect their appeal from the order of the Supreme Court, New York County, entered on or about October 6, 2009, to be heard on the same date as the appeal in *Kettaneh v NYC Board of Standards and Appeals* (NY Co. Ind. No. 113227/08),

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the December 2010 Term. The motion is otherwise denied, with leave to renew, only as to the request to calendar the appeals for hearing together upon perfection of said appeals.

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 August 17, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----x
In the Matter of a Probate Proceeding,
Will of

M-3594

Rocky H. Aoki, also known as
Hiroaki Aoki,
Deceased.

Surrogate's Court
File No. 2604-2008

- - - - -
Keiko Ono Aoki,
Petitioner-Respondent,

Kana Aoki Nootenboom, Kevin Aoki,
Echo Aoki and Kyle Aoki,
Objectants-Appellants.

-----x
An appeal having been taken to this Court from the order of the Surrogate's Court, New York County, entered on or about December 28, 2009, and so modified by the order of said Court entered on or about February 2, 2010,

And petitioner-respondent having moved for an order enlarging the record on 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.

ENTER:



Clerk