

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

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

-----X  
Comverse Technology, Inc.,  
Plaintiff-Respondent,

-against-

Jacob ("Kobi") Alexander,  
Defendant-Appellant,

M-111X  
Index No. 600142/08

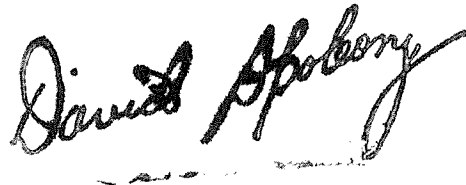
William Sorin,  
Defendant-Appellant.  
-----X

An appeal having been taken by defendant Jacob ("Kobi") Alexander from an order of the Supreme Court, New York County, entered on or about June 5, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" January 7, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

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

-----X

Ndue Selora and Luce Selora  
Plaintiffs-Respondents,

-against-

81 Spring Realty LLC and 81 Spring  
Realty Corp.,  
Defendants-Respondents,

The Bayard House,  
Defendant

Horizon Realty & Development Corporation.  
Defendant-Respondent,

M-447  
Index No. 13268/04

DeLaurentis Management Corp. and  
Seaboard Construction Corporation  
of New Jersey,  
Defendants,

Keith Jacobson,  
Defendant-Appellant,

Newmark Construction Services L.L.C.,  
Newmark & Company Real Estate, Inc.,  
Bobrow Realty Co., LLC, Victory Air-  
Conditioning, Inc. and Triple L.  
Construction, Inc.  
Defendants.

-----X

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

Now, upon reading and filing the stipulation of the parties hereto, dated January 21, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the January 2010 Term, is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

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

-----X  
Hector Melendez,  
Plaintiff-Respondent,

-against-

M-465  
Index No. 15953/04

Atid Company, LLC,  
Defendant,

-and-

Salanter Akiba Riverdale Academy  
LLC,  
Defendant-Respondent.

-----X  
Salanter Akiba Riverdale Academy  
LLC,  
Third-Party Plaintiff-Respondent,

-against

Third-Party  
Index No. 85317/06

Hudson Construction Management, Inc.,  
Third-Party Defendant-Appellant.

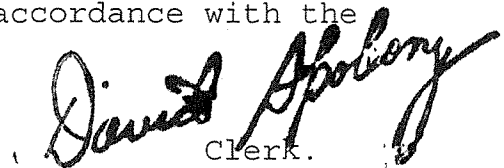
-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about December 12, 2008,

Now, upon reading and filing the stipulation of the parties hereto, dated January 15, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the January 2010 Term, is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

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

-----X  
Maria Austin,  
Plaintiff-Respondent,

-against-

420-428 Amsterdam LLC,  
Defendant-Appellant.

M-440  
Index No. 116413/06

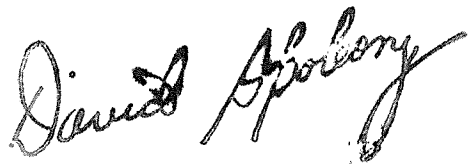
-----X

An appeal having been taken from an 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 stipulation of the parties hereto, dated January 14, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the March 2010 Term, is withdrawn in accordance with the aforesaid stipulation.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on February 18, 2010.

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

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

-against-

M-5543  
Ind. No. 58077C/04

Jesus Pratts,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about December 1, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 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 Sec. 722 of the County Law. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
John W. Sweeny, Jr.  
James M. Catterson  
Sheila Abdus-Salaam, Justices.

-----X  
Mohamed Keita and Mass K. Kieta,  
Plaintiffs-Appellants,

-against-

M-5714  
Index No. 109558/08

Empire Fire and Marine Insurance  
Company, et al.,  
Defendants-Respondents.  
-----X

Defendants-respondents having moved for dismissal of the appeal taken from the order of the Supreme Court, New York County, entered on or about February 5, 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 February 18, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

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

-against-

M-30  
Ind. Nos. 3206/08  
933/08

Julio Andujar,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about June 29, 2009, and for leave to prosecute the appeal as a poor person on the original record and upon a reproduced appellant's brief, and for assignment of counsel,

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

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

Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
David Friedman  
John W. Sweeny, Jr.  
John T. Buckley, Justices.

-----X  
Kyu Hong Han,  
Petitioner-Landlord-Respondent,

-against-

M-67  
Index No. 570467/08

Lovado Adams,  
Respondent-Tenant-Appellant.  
-----X

An order of this Court having been entered on September 8, 2009 (M-2873), denying respondent-tenant-appellant 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 April 14, 2009,

And respondent-tenant-appellant having moved for reargument of the aforesaid order of this Court entered on September 8, 2009 (M-2873), for leave to prosecute the 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 in all respects.

ENTER:



Clerk.



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Richard T. Andrias  
David B. Saxe  
Dianne T. Renwick  
Sallie Manzanet-Daniels, Justices.

-----X  
American Guarantee & Liability  
Insurance Company, etc.,  
Plaintiff-Appellant,

-against-

M-5735  
Index No. 107460/07

State National Insurance Company, 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 November 12, 2009 (Appeal No. 1430),

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

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
Sherri Nixon and Albert Nixon,

Plaintiffs-Appellants,

-against-

M-5822  
Index No. 20513/06

Felipe Saavedra, 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 March 3, 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 February 18, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
Petra Cre CDO 2007-1, Ltd., By and  
Through Petra Capital Servicer LLC,  
as Special Servicer,  
Plaintiff,

-against-

M-5856  
Index No. 600701/09

Street Smart Realty LLC, doing business  
as Street Smart Realty of NY, et al.,  
Defendants,

Yuppie Puppy Peter Tom Care, Inc.,  
et al.,  
Defendants.

-----X  
A purported appeal having been taken from the order of the Supreme Court, New York County, entered on or about October 16, 2009 (mot. seq. no. 002),

And defendant Street Smart Realty LLC having moved for a stay of all proceedings, pending hearing and determination of the purported appeal,

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

Ordered that defendants' purported appeal is dismissed as it is taken from a non-appealable paper. The motion for a stay of all proceedings is denied, as academic.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
David Friedman  
Karla Moskowitz  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

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

-against-

M-55  
Ind. Nos. 2166/08  
6423/08

Oswaldo Serrata, also known as Jesus  
Serrata,  
Defendant-Appellant.

-----X


Defendant having renewed his motion for leave to prosecute, as a poor person, the appeals from the judgment and order of the Supreme Court, New York County, rendered on or about June 30, 2009 and entered on or about September 3, 2009, respectively, for leave to have the appeals heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeals, which are consolidated, to be heard upon the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

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

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the consolidated appeals. The time within which appellant shall perfect the appeals is hereby enlarged until 120 days from the date of filing of the record.

ENTERED:   
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
James M. Catterson, Justices.

-----X  
Andrea V. Liberman and Trevor R.  
Gurwich,  
Plaintiffs,

-against-

M-267  
Index No. 602321/09

Cayre Synergy 73<sup>rd</sup> LLC, Cayre 73<sup>rd</sup> LLC,  
Synergy 73<sup>rd</sup> Street Development LLC,  
Jack Cayre, Joe Cayre, David Mallenbaum,  
Steven Cayre, Core Group Marketing LLC,  
Thomas Postillo and Michael Haddad,  
Defendants.

-----X  
Plaintiffs having moved, pursuant to CPLR 5704(a), for relief having been denied by a Justice of the Supreme Court, New York County, on or about January 13, 2010 (mot. seq. no. 002),

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

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

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

-against-

M-56  
Ind. No. 453/94

Raul Castillo,  
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, Bronx County, rendered on or about May 5, 1995, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, with this Court.

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

Steven M. 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 February 18, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
Dianne T. Renwick  
Helen E. Freedman, Justices.

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

Respondent,

-against-

M-133  
Ind. No. 1415/09

Kevin Peters,

Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about September 29, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth facts sufficient to establish that defendant has no funds or assets with which to prosecute 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 February 18, 2010.

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

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

-against-

M-5402  
Ind. No. 30043/07

Brian McGarghan,  
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 7, 2007,

And an order of this Court having been entered on February 19, 2008 (M-6713/M-27) inter alia, granting defendant leave to prosecute the appeal as a poor person,

And defendant-appellant having moved to reargue so much of the aforesaid order of this Court, entered on February 19, 2008 (M-6713/M-27), which denied defendant the assignment of counsel as a result of this Court incorrectly indentifying Bryan Konoski, Esq., as retained counsel for defendant,

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 modifying the prior order of this Court, entered on February 19, 2008 (M-6713/M-27), to the extent of appointing Bryan Konoski, Esq., Treyvus & Konoski, P.C., 305 Broadway, 7<sup>th</sup> Floor, New York, NY 10007, Telephone No. (212) 897-5832, as 18-b counsel for defendant for purposes of prosecuting the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:



Clerk.



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
David B. Saxe  
James M. Catterson  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----X  
Mahmoud Mozaffari,  
Petitioner,

-against-

New York State Division of Human Rights,  
Respondent,

M-4295  
Index No. 300666/08

Patricia Schatz,  
Intervenor-Respondent.

- - - - -  
New York State Division of Human Rights,  
Cross-Petitioner,

-against-

Mahmoud Mozaffari,  
Cross-Respondent,

Patricia Schatz,  
Intervenor-Cross-Respondent.

-----X

An Article 78 proceeding to review a determination of respondent, New York State Division of Human Rights, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, Bronx County, entered on or about March 13, 2008,

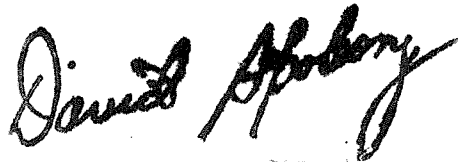
And a decision and order of this Court having been entered on June 30, 2009 (Appeal No. 964), unanimously modifying the determination of respondent New York State Division of Human Rights, dated November 27, 2007,

And Jeffrey S. Ween & Associates (Jeffrey S. Ween of counsel) having moved this Court for an award of counsel fees pursuant to Executive Law §§ 297(10) and 298,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties filed February 2, 2010, and due deliberation having been had thereon, it is

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

ENTER:

A handwritten signature in black ink, appearing to read "David Apobony". The signature is written in a cursive, somewhat stylized font.

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
80 St. Nicholas Ave., HDFC,

Petitioner-Landlord-Appellant,

-against-

M-5864  
Index No. 570235/08

Agnes Lewis, sued herein as A. Lewis,

Respondent-Tenant-Respondent.

-----X  
(And Other Actions)  
-----X

Respondent-tenant-respondent 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 July 14, 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.

ENTER:



- Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
Ophelia Johnson,  
Plaintiff-Respondent,

-against-

M-242  
Index No. 7582/99

New York City Transit Authority,  
Defendant-Appellant.  
-----X

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from a judgment of the Supreme Court, Bronx County, entered on or about March 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 to the extent of enlarging the time in which to perfect the appeal to the May 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 February 18, 2010.

PRESENT: Hon. Richard T. Andrias, Presiding Justice,  
James M. Catterson  
Dianne T. Renwick  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

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

-against-

M-448  
Ind. No. 619/08

Rasheem Williams,  
Defendant-Appellant.

-----X

An appeal having been taken from the judgement of the Supreme Court, New York County, rendered on or about December 16, 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 appeal is withdrawn in accordance with the aforesaid motion.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
James M. McGuire  
Karla Moskowitz  
Helen E. Freedman  
Nelson S. Román, Justices.

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

Respondent,

-against-

M-5726  
Ind. No. 3381/05

Victor Pena,

Defendant-Appellant.  
-----X

The People having moved for dismissal of the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about April 6, 2006,

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 February 18, 2010.

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

-----X  
Simon Lorne, et al.,  
Plaintiffs-Respondents,

-against-

50 Madison Avenue, LLC, et al.,  
Defendants-Respondents,

M-4678

M-4855

Goldstein Properties, LLC, et al.,  
Defendants,

Index No. 602769/07

The Board of Managers, et al.,  
Defendants-Appellants,

50 Madison Avenue Condominium,  
Additional Defendant-Appellant.

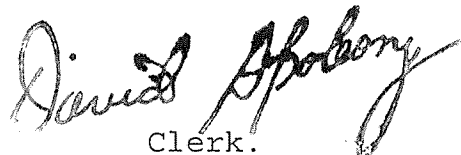
-----X

Plaintiffs-respondents having moved by separate motions for reargument/renewal (M-4678) or, in the alternative, for leave to appeal to the Court of Appeals (M-4855) from the decision and order of this Court entered on September 8, 2009 (Appeal No. 579),

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

It is ordered that the motions are denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

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

-----X  
Patriot Exploration, LLC and  
Patriot Land, LLC, doing business  
as JF Patriot Land, LLC,  
Plaintiffs-Respondents,

-against-

M-5773  
Index No. 114436/08

Thompson & Knight LLP,  
Defendant-Appellant.  
-----X

Defendant-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about June 4, 2009 (mot. seq. no. 002),

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

It is ordered that the motion is denied.

ENTER:



Clerk.



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
David Friedman  
James M. McGuire  
Karla Moskowitz, Justices,

-----X  
Bruce Pomahac,  
Plaintiff-Respondent,

-against-

TrizecHahn 1065 Avenue of the  
Americas, LLC, et al.,  
Defendants-Appellants,

M-4145  
Index No. 105689/04  
591169/04

Sterling Services Company, et al.,  
Defendants.

(And a Third-Party Action)  
-----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 August 18, 2009 (Appeal No. 241),

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

It is ordered that the motion is denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

Present: Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Rolando T. Acosta  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----X  
Cromus, as the Assignee of  
Masinexportimport Industrial Group,  
S.A.,  
Plaintiff-Appellant,

-against-

M-5824  
Index No. 114890/07

Summit Machine Tool Manufacturing  
Corp., et al.,  
Defendants-Respondents.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 18, 2008 (mot. seq. no. 004),

And defendants-respondents having moved to dismiss the appeal for want of prosecution,

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

Ordered that defendants' 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 February 18, 2010.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
Stonebridge Capital, LLC,  
Plaintiff-Appellant,

-against-

Nomura International PLC,  
Defendant-Respondent,

U.S. Bank National Association,  
et al.,  
Defendants.

-----  
Nomura International PLC,  
Counterclaim Plaintiff-Respondent,

-against-

Stonebridge Capital, LLC, et al.,  
Counterclaim Defendants,

J.R. 1042 Investor, LLC, et al.,  
Counterclaim Defendants-Appellants.

-----X

M-5759  
M-5761  
Index No. 602081/08

Plaintiff-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 15, 2009 (Appeal No. 1760) [M-5759],

And counterclaim defendants-appellants having moved for the same relief [M-5761],

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

It is ordered that the motions are denied.

ENTER:   
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 18, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Rolando T. Acosta  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----X  
Andrea Wilkinson and Dan Donzelli,  
Plaintiffs-Appellants,

-against-

M-408  
Index No. 110445/04

Community Preservation Corporation  
and Anders Tomson, in his individual  
and official capacity,  
Defendants-Respondents.

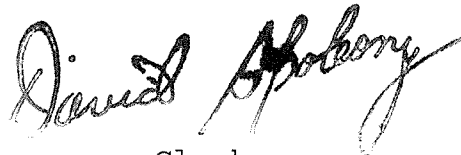
-----X

Plaintiff-appellant Andrea Wilkinson having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about March 11, 2009 (mot. seq. no. 001),

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the June 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 February 18, 2010.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,  
John T. Buckley  
James M. Catterson  
Rolando T. Acosta  
Helen E. Freedman, Justices.

-----X  
In re Cornisha Cherry,  
Petitioner-Appellant,

-against-

M-5488  
Index No. 113221/07

New York City Housing Authority,  
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 November 5, 2009 (Appeal No. 1374),

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.

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

BEFORE: **Hon. Luis A. Gonzalez,**

Justice.

-----X

<b>The People of the State of New York,</b>	:	<b>M - 66</b>
- against -	:	CERTIFICATE DENYING LEAVE
<b>Moises Colon.</b>	:	<b>Indictment No.</b>
<b>Defendant.</b>	:	<b>1991/04</b>

-----X

I, Luis A. Gonzalez, 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 Section 460.15 of the Criminal Procedure Law, 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 November 13, 2009, is hereby denied.

Dated: New York, New York  
February 8, 2010

ENTERED FEB 18 2010

  
Justice

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

BEFORE: Hon. John W. Sweeny, Jr.  
Justice of the Appellate Division

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

M-5360  
Ind. No. 6221/93

-against-

CERTIFICATE  
DENYING LEAVE

Luis Morales,

Defendant.

-----X  
I, John W. Sweeny, Jr., 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 October 5, 2009 (Martin Markus, J.) is  
hereby denied.

Defendant's application for poor person relief and  
assignment of appellate counsel is denied as academic.

  
Associate Justice

Dated: February 8, 2010  
New York, New York

ENTERED: FEB 18 2010

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

BEFORE: Hon. KARLA MOSKOWITZ  
Justice of the Appellate Division

-----X  
Jane Doe,

Plaintiff,

M-276  
Ind.No. 101639/2007

-against-

Madison Third Building Co., et al

Defendants.


-----X

Plaintiff-Appellant having moved for leave to appeal to this Court from the order of the Supreme Court, New York County (Michael D. Stallman, J.) entered on or about March 11, 2009,

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

The order sought to be appealed from is non-appealable because it is not an order deciding a motion on notice.

Accordingly, it is ordered that the motion is denied.

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

Dated: FEB 08 2010, 2010  
New York, New York

ENTERED: FEB 18 2010



FEB 18 2010

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

Peter Tom,	Justice Presiding,
Angela M. Mazzairelli	
Leland G. DeGrasse	
Sallie Manzanet-Daniels	
Nelson S. Román,	Justices.

-----x

In the Matter of Francis X. Morrissey,  
an attorney and counselor-at-law:

Departmental Disciplinary Committee for the First Judicial Department, Petitioner,	M-4807
--	--------

Francis X. Morrissey,  
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Francis X. Morrissey, 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  
October 15, 1973.

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

Thomas P. Puccio, for respondent.

M-4807 (November 18, 2009)

IN THE MATTER OF FRANCIS X. MORRISSEY -- AN ATTORNEY

PER CURIAM

Respondent Francis X. Morrissey was admitted to the practice of law in the State of New York by the First Judicial Department on October 15, 1973. At all times relevant to these proceedings, respondent maintained his principal place of business within the First Judicial Department.<sup>1</sup>

On October 8, 2009, following a jury trial in Supreme Court, New York County, respondent was found guilty of scheme to defraud in the first degree (Penal Law § 190.65[1][b]), conspiracy in the fourth degree (Penal Law § 105.10[1]), and forgery in the second degree (Penal Law § 170.10[1]), all felonies, as well as conspiracy in the fifth degree (Penal Law § 105.05[1]), a class A misdemeanor. On December 21, 2009, he was sentenced to a cumulative term of imprisonment of 1 to 3 years.

Respondent's conviction arose out of his participation in a scheme to defraud Brooke Astor. Respondent, with the assistance of her son, Anthony Marshall, looted Ms. Astor's estate during the period from approximately 2001 to 2007, when her mental capacity was diminished. Respondent was found guilty of forging a codicil to Ms. Astor's will, thereby giving Mr. Marshall the

---

<sup>1</sup> In 1995, respondent was suspended from the practice of law for a period of two years (217 AD2d 74 [1995]) and reinstated in 1998 after a hearing (254 AD2d 219 [1998]).

power to appoint co-executors and shifting some \$5 million in estate costs from the \$60 million residuary estate, over which Mr. Marshall had outright control under the terms of an earlier codicil, to a \$60 million trust. Respondent was subsequently appointed co-executor of the trust by Mr. Marshall together with Mr. Marshall's wife.

The Disciplinary Committee now seeks an order striking respondent's name from the roll of attorneys and counselors-at-law pursuant to Judiciary Law § 90(4)(a) on the ground that he was automatically disbarred as a result of his conviction of a felony under New York law. Respondent's counsel has submitted a letter response asking this Court to stay its order until respondent's anticipated appeal of his criminal conviction is decided, a request the Committee opposes.

A conviction of a criminal offense classified as a felony under the laws of this state results in automatic disbarment (see Judiciary Law § 90[4][b] and [e]; *Matter of Conroy*, 309 AD2d 57 [2003]). Thus, upon his conviction of three felonies, respondent ceased to be an attorney by operation of law (see *Matter of Just*, 38 AD3d 58 [2006] [scheme to defraud in the first degree]; *Matter of Velella*, 11 AD3d 50 [2004] [conspiracy in the fourth degree]; *Matter of Postel*, 165 AD2d 474 [1991] [inter alia, forgery in the second degree]).

Accordingly, the Committee's petition should be granted and

respondent's name stricken from the roll of attorneys and  
counselors at law, effective nunc pro tunc to October 8, 2009,  
the date of conviction.

All concur.

Order filed.



M-5559 (December 23, 2009)

IN THE MATTER OF EMMANUEL ROY, III, ESQ.

Per Curiam

Respondent, Emmanuel Roy, III, was admitted to the practice of law in the State of New York by the Second Judicial Department on July 25, 2001. At all times relevant to the charges herein, he maintained an office for the practice of law within the First Judicial Department.

In June 2009, the Departmental Disciplinary Committee charged respondent with 38 charges, covering six matters, including two unrelated real estate transactions in which he represented the seller. In the first real estate matter, respondent inflated the sale price to obtain a higher mortgage and pocketed the excess. In the second, he allegedly converted client escrow funds.

On or about October 15, 2009, respondent was arrested and charged, with numerous co-defendants, in a federal indictment alleging his participation in a multimillion dollar home mortgage fraud scam, unrelated to the disciplinary proceeding. On November 5, 2009, this Court denied respondent's application for a stay of the disciplinary hearing pending the resolution of the federal charges. A hearing on the disciplinary charges was held on November 10, 2009. Shortly thereafter, respondent advised the Departmental Disciplinary Committee that he wished to resign from

the bar.

The Departmental Disciplinary Committee now asks this Court for an order, pursuant to Rule 603.11 of the Rules of this Court (22 NYCRR 603.11), accepting respondent's resignation from the practice of law and striking his name from the roll of attorneys.

In his affidavit of resignation, sworn to on November 30, 2009, respondent states that: (1) his resignation is submitted freely, voluntarily and without coercion or duress, (2) he is fully aware of the implications of submitting his resignation, and (3) he received legal advice and guidance from his attorney (see 22 NYCRR 603.11[a][1]-[3]).

Respondent states that he is aware that the Departmental Disciplinary Committee has served him with a Notice and Statement of Charges alleging 38 violations of the disciplinary rules (a copy of which is attached to his affidavit) including 16 charges of dishonesty, fraud, deceit or misrepresentation in two unrelated real estate transactions "including allegations that I falsified a contract of sale and other mortgage documents to reflect an inflated sale price." Respondent states further that additional allegations include that he misappropriated funds he was holding in escrow and disbursed them for purposes other than those for which they were intended; that he made material misrepresentations to the Small Claims Court in a subsequent action that arose from his conduct, including a false affidavit;

that he applied for a credit card by engaging in identity theft; that he testified falsely in a deposition before the Departmental Disciplinary Committee and fabricated documents submitted to the Committee; that he neglected a client's legal matter; that he used a false and misleading name for his law firm; and that he did not maintain required escrow account records. Finally, respondent acknowledges that he cannot successfully defend himself against the pending charges.

Although respondent's counsel initially submitted an "Affirmation in Opposition" in which he objected to certain language and statements made by the Departmental Disciplinary Committee in their motion, counsel withdrew his affirmation by Stipulation dated December 21, 2009, which also stated that the parties agreed to extend the return date of the instant motion from December 23 to December 31, 2009 "with this Court's permission." This Court has declined to extend the return date and no further papers have been submitted by either party.

Respondent's sworn submission satisfies the criteria of the Rules of this Court (22 NYCRR 603.11), namely, that he is aware of the Departmental Disciplinary Committee's pending investigation and is unable to defend himself on the merits against the charges of misconduct and unethical practices, that his resignation is freely and voluntarily tendered without coercion or duress, and that he is fully aware of the



implications of this intentional act of resignation.

Accordingly, the Departmental Disciplinary Committee's motion should be granted, respondent's resignation from the practice of law accepted, and his name stricken from the roll of attorneys, effective nunc pro tunc to November 30, 2009.

All concur.

Order filed.

**PM ORDERS**

**ENTERED**

**FEBRUARY 16, 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 February 16, 2010.

PRESENT - Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Eugene Nardelli  
Helen E. Freedman, Justices.

-----X  
Thomas J. Campbell,  
Plaintiff-Respondent-Appellant,

-against-

Action No. 1  
Index No. 600673/08

Robert B. McKeon, et al.,  
Defendants-Appellants-Respondents.

-----X  
Veritas Capital Management, L.L.C.,  
Veritas Capital Investments, LLC,  
Veritas Capital Management II, LLC,  
Veritas Capital Investments II, LLC,  
and Veritas Capital Fund Management,  
L.L.C.,  
Plaintiffs-Appellants-Respondents,

M-378  
M-379

Action No. 2  
Index No. 650058/08

-against-

Thomas J. Campbell,  
Defendant-Respondent-Appellant.

-----X

An order of this Court having been entered on March 17, 2009 (M-1080), inter alia, consolidating the appeals and cross appeal taken with respect to the disqualification order(s) of the Supreme Court, New York County, and staying further proceedings pending hearing and determination of said appeals and cross appeal,

And said appeals and cross appeal presently being sub judice in this Court,

And separate appeals and a cross appeal having been taken from the order of said Court entered on or about February 2, 2009 in Action No. 1 (dismissal order), and an appeal and cross appeal having been taken from the order of said Court entered on or about November 28, 2008 in Action No. 2 (the dismissal order),

And an order of this Court having been entered on November 24, 2009 (M-5027/M-5028) continuing the stay of proceedings granted by the order of this Court entered on or about March 17, 2009 (M-1080) to encompass later appeals and cross appeals and enlarging the time in which to perfect same to the May 2010 Term,

And defendants-appellants-respondents Robert B. McKeon and the Veritas entities having moved for a further enlargement of time in which to perfect in Action No. 1 (M-378),

And plaintiffs-appellants-respondents Veritas entities having moved for a further enlargement of time in which to perfect in Action No. 2 (M-379),

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-378/M-379) are granted to the extent of enlarging the time in which to perfect the respective appeals and cross appeals to on or before July 12, 2010 for the September 2010 Term, with no further enlargements to be granted.

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive style with a large, sweeping flourish at the end.

Clerk