

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 September 30, 2010.

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

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

-against-

M-4331
Ind. No. 1331/09

Raul Espino,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about May 18, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

Elva Iris Castro

DEPUTY CLERK
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 September 30, 2010.

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

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

-against-

M-4332
Ind. No. 1384/10

Alexander Gonzalez, also known as
Kliti Mohammed,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about July 22, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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



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 September 30, 2010.

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

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

-against-

M-4334
Ind. No. 7570/02

Harold Jones,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about July 27, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 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 **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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: 
DEPUTY CLERK
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 September 30, 2010.

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

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

-against-

M-4335
Ind. No. 5650/09

Eugene Pennix,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about May 25, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

Elva Iris Castro

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 September 30, 2010.

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

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

-against-

M-4336
Ind. No. 11664/95

Robert Santana,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about May 7, 2010, denying resentence, 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.

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:

Elva Iris Castro
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 September 30, 2010.

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

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

-against-

M-4330
Ind. No. 6327/95

Jose Crespo,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of **resentence** of the Supreme Court, Bronx County, rendered on or about July 12, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 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 **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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.

ENTERED: 
DEPUTY CLERK
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 September 30, 2010.

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

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

-against-

M-4337
Ind. No. 6233/02

Richard Santiago,
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 April 19, 2010, denying resentence, 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.

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:

Elva Oris Castro

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 September 30, 2010.

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

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

-against-

M-4340
Ind. No. 579/99

Michael Thomas, also known as
Willie Butler,
Defendant-Appellant.

-----X

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

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

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

Elva Iris Castro

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 September 30, 2010.

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

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

-against-

M-4329
Ind. No. 3344/04

Kenneth Archbold,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County (Bruce Allen, J.) entered on or about June 29, 2010, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, for an enlargement of time in which to perfect the appeal, and for related relief,

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

Ordered that the motion is 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 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 Clerk of the Supreme Court shall expeditiously have made and file with the criminal court (CPL 460.70) two transcripts of the stenographic minutes of the SORA hearing and any other proceedings before Justice Allen as yet not transcribed. The Clerk shall furnish a copy of such transcripts to appellant's counsel, Robert S. Dean, Esq., 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



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 September 30, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
John W. Sweeny, Jr.
Rosalyn H. Richter
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X
Sona Shah,
Plaintiff-Appellant,

-against-

Wilco Systems Inc.,
Defendant-Respondent.
-----X

SEALED
M-3843
Index No. 113231/02

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about October 14, 2009 (mot. seq. no. 024),

And an order of this Court having been entered on June 1, 2010 (M-2179), inter alia, granting appellant leave to file a substitute brief,

And counsel for plaintiff-appellant having moved for leave to submit a further amended Appellant's brief to substitute for the brief filed,

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:

Elva Iris Castro
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 September 30, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
Eric Elmore, Jr., an infant by his
parents and natural guardians, Eric
Elmore, Sr. and Maria Elmore, and
Eric Elmore, Sr., individually and
Maria Elmore, individually,
Plaintiffs-Appellants,

SEALED
M-4005
M-4366
Index No. 8580/04

-against-

2720 Concourse Associates, L.P.,
and Pietro Ruggiero,
Defendants-Respondents.

-----X

Appeals having been taken from the orders of the Supreme Court, Bronx, County, both entered on or about May 28, 2010, and said appeals having been perfected,

And purported new counsel for plaintiffs, Burns & Harris, Esqs. (Christopher J. Donadio of counsel) having moved for an order (1) adjourning the aforesaid perfected appeals; (2) extending the deadline for examination before trial and independent physical examination as per the aforesaid orders on appeal; (3) directing current counsel for plaintiffs, Wingate, Russotti & Shapiro, LLP, to relinquish all files to movants and (4) directing current counsel to relinquish to movants an unredacted copy of the appellants' brief (M-4005),

And current counsel for plaintiffs, Wingate, Russotti & Shapiro, LLP, having cross-moved for an order (1) remanding the matter to Supreme Court, Bronx County, to allow a renewed motion for an appointment of a guardian ad litem for plaintiff infant; (2) continuing the stay afforded plaintiffs' by order of this Court entered on July 13, 2010 (M-3107); (3) continuing the prior "seal" order; (4) directing plaintiff mother and purported new counsel and counsel for defendants to return all documents provided by plaintiff mother to purported new counsel and disclosed to defense counsel; (5) sealing so much of the record on appeal containing the aforesaid documents; and (6) imposing sanctions against purported new counsel for frivolous motion practice,

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 granted to the extent of directing that all documents on file with this Court and all further filings are to be sealed; vacating the stay of the orders on appeal granted in the prior order of this Court entered on July 13, 2010 (M-3107) and closing of discovery and imposition of final or conditional preclusion of evidence in this action is stayed; and plaintiff Maria Elmore is restrained from retaining counsel for plaintiffs other than current counsel of record, Wingate, Russotti & Shapiro, LLP, all pending hearing and determination of the appeals, and the motion and cross motion are otherwise denied without prejudice to further proceedings in Supreme Court, Bronx County.

ENTER:

Elva Iris Castro
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 September 30, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
John Barnwell,
Plaintiff-Respondent,

-against-

M-3776
Index No. 112825/07

Emigrant Savings Bank, Emigrant
Savings Bank - Manhattan and
Doe Corporations 1-5,
Defendants-Appellants.

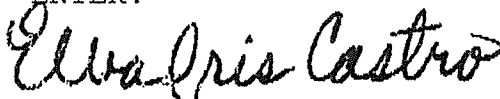
-----X

Defendants-appellants Emigrant Savings Bank and Emigrant Savings Bank - Manhattan 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 July 12, 2010 (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 on condition appellant perfects the appeal on or before November 8, 2010 for the January 2011 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 September 30, 2010.

PRESENT: Hon. Angela M. Mazzairelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
Gayle Grenadier Richman,
Plaintiff-Respondent,

-against-

M-4267
Index No. 600467/06

Harleysville Worcester Insurance
Company, et al.,
Defendants,

Alexander Wall Corporation,
Defendant-Appellant.
-----X

Defendant-appellant having moved for a stay of trial pending hearing and determination of the appeals taken from the order of the Supreme Court, New York County, entered on or about December 1, 2009 (mot. seq. no. 010),

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:

Elva Iris Castro
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 September 30, 2010.

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

-----X

Luis Ramirez, et al.,
Plaintiffs-Respondents,

-against-

M-3864
Index No. 602381/08

Mansions Catering, Inc., et al.,
Defendants-Appellants.

-----X

Defendants-appellants having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on June 8, 2010 (Appeal No. 2994),

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:


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 September 30, 2010.

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

-----X
Hope Elizabeth Hodson,
Plaintiff-Respondent,

-against-

M-3616
Index No. 570097/06

Jay P. Goldsmith, D.M.D.,
Defendant-Appellant.
-----X

Plaintiff-respondent having moved for leave to appeal to this Court from the decision and order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about June 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 denied. (See M-3185, decided simultaneously herewith.)

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 September 30, 2010.

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

-----X
Hope Elizabeth Hodson,
Plaintiff-Appellant,

-against-

M-3185
Index No. 570275/06

Alan J. Wasserman, D.D.S.,
Defendant-Respondent.

-----X

Plaintiff having moved for, inter alia, 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 February 24, 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. So much of the motion which seeks leave to appeal from the order of the Appellate Term denying plaintiff leave to appeal to this Court is deemed as not appealable [CPLR 5703 (a)]. (See M-3616, decided simultaneously herewith.)

ENTER:

Elva Iris Castro
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 September 30, 2010.

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

-----X
Lance International, Inc.,
Plaintiff-Appellant,

-against-

M-3045
Ind. No. 570717/09

First National City Bank,
Defendant-Respondent.
-----X

Defendant-respondent First National City Bank 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 February 19, 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. Appellant shall file two copies of the pre-argument statement and of this order with the Clerk of the Appellate Term with proof of service, pursuant to Section 600.17 of the Rules of this Court.

ENTER:

Elva Iris Castro

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 September 30, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
John W. Sweeny, Jr.
Dianne T. Renwick
Sheila Abdus-Salaam
Sallie Manzanet-Daniels, Justices.

-----X

Trustees of the Plumbers Local
Union No. 1 Additional Security
Benefit Fund,
Plaintiff-Respondents,

-against-

M-3867

Index No. 103822/08

City of New York,
Defendant-Appellant.

-----X

Defendant-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 13, 2010 (Appeal No. 2575),

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:



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 September 30, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David Friedman
Diane T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
GS Plasticos Limitada,
Plaintiff-Respondent,

-against-

M-4622
Index No. 650242/09

Bureau Veritas,
Defendant-Appellant,

Bureau Veritas Consumer Products
Services, Inc.,
Defendant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 16, 2010 (mot. seq. no. 003), and said appeal having been perfected,

And plaintiff-respondent having moved for an order dismissing the aforesaid appeal for defendant's failure to assemble a proper 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 granted to the extent of maintaining defendant's perfected appeal on the December 2010 Term and directing defendant to serve and file forthwith 10 copies of a supplemental record on appeal containing the Supreme Court transcripts from July 30, 2009, and it is otherwise denied.

ENTER:

Elva Iris Castro
Clerk
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 September 30, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Eugene Nardelli
James M. McGuire
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Andrea Mendez,

Plaintiff-Appellant,

-against-

M-4034
Index No. 13554/06

HOF Realty LLC, et al.,

Defendants-Respondents.
-----X

Plaintiff-appellant 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 December 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 January 2011 Term.

ENTER:

Elva Iris Castro
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 September 30, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Eugene Nardelli
James M. McGuire
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Paula Richman,

Plaintiff-Respondent,

-against-

M-4487

Index No. 105380/08

Ilan Properties, Inc.,

Defendant-Appellant,

Spring Scaffolding, Inc., et al.,

Defendants.
-----X

Defendant-appellant 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 May 14, 2009 (mot. seq. no. 003),

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 January 2011 Term.

ENTER:

Elva Iris Castro

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 September 30, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Eugene Nardelli
James M. McGuire
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

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

Smart Workout, Inc.,
Petitioner,

For a Judgment Pursuant to Article
78 of the CPLR,

M-4462
Index No. 101073/10

-against-

Environmental Control Board,
Respondent.
-----X

An Article 78 proceeding to review a determination of respondent, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about June 16, 2010,

And petitioner having moved for an order awarding petitioner certain money plus interest including the cost of this motion,

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 at the time of argument of the proceeding.

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 September 30, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,
Eugene Nardelli
James M. McGuire
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Georgia Rose, as Administratrix
of the Estate of William A. Hamilton
and Georgia Rose, Individually,
Plaintiffs-Appellants,

-against-

M-3989
M-4211
Index No. 116375/04

Martin J. Frankel, M.D., Charles
Powell, M.D., Columbia University
College of Physicians and Surgeons
and New York Presbyterian Hospital,
Defendants-Respondents.

-----X

Plaintiffs-appellants having moved (M-3989) for an enlargement of time in which to perfect the appeal from a judgment of the Supreme Court, New York County, entered on or about October 19, 2009,

And defendants-respondents having cross moved (M-4211) to dismiss the aforesaid 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 (M-3989) and cross-motion (M-4211) are granted to the extent of enlarging the time in which to perfect the appeal to on or before December 6, 2010 for the February 2011 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent(s) serve a copy of this order upon the appellant(s) within ten days after the date of entry hereof.

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 September 30, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,
Eugene Nardelli
James M. McGuire
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
The People of the State of New York
ex rel. Armando Guzman, Sr.,
Petitioner,

-against-

M-4393
Ind. No. 3137/07

Joandrea Davis, Warden, GMDC C-73
Facility Rikers Island Complex, et al.,
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 due deliberation having been had thereon,

It is ordered that the motion be and the same hereby is granted to the extent of issuing the writ, and

It is further ordered that the habeas corpus proceeding herein be transferred to and be heard before a Justice of the Supreme Court of the State of New York, Bronx County, 851 Grand Concourse, Bronx, New York 10451, forthwith, and

It is further ordered that service by mail of a copy of this writ of habeas corpus, petition and supporting papers, by the Clerk of this Court, contemporaneous with the entry hereof, upon the Warden at Otis Bantum Correctional Center, 16-00 Hazen Street, East Elmhurst, New York 11370; the Attorney General of the State of New York, 120 Broadway, New York, New York 10271; and the District Attorney of Bronx County, 198 East 161st Street, Bronx, New York 10451, be deemed due and sufficient notice.

The motion is otherwise denied.

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 September 30, 2010.

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

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

-against-

M-3652
Ind. No. 29/00

Ralph Alicea,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about February 20, 2004,

And respondent, the People, having moved for an order relieving Richard M. Greenberg, Esq., as assigned counsel for defendant, striking the appellant's brief filed on defendant's behalf, substituting new counsel for defendant, and precluding defendant from filing a pro se supplemental 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, to the extent it seeks to relieve Richard M. Greenberg, Esq., as counsel for defendant, to strike defendant-appellant's brief, and to substitute new appellate counsel, is denied. So much of the motion which seeks to preclude defendant from filing a pro se supplemental brief is granted.

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 September 30, 2010.

PRESENT - Hon. David Friedman, Justice Presiding
Karla Moskowitz
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

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

-against-

M-3575
Ind. No. 4945/08

Michael Hagood,
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 16, 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, 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:


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 September 30, 2010.

PRESENT: Hon. Eugene Nardelli, Justice Presiding,
James M. McGuire
Rolando T. Acosta
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Louise Digiulio, etc.,
Plaintiff-Appellant,

-against-

Gran, Inc., doing business as
New York Health & Racquet Club, et al.,
Defendants-Respondents.

M-3520
Index Nos. 105441/06
590415/09

-----X
[And a Third-Party Action]
-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on June 3, 2010 (Appeal No. 2666),

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:

Elva Iris Castro
Clerk
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 September 30, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Clean Earth Holding, Inc., et al.,
Plaintiffs-Appellants,

-against-

M-4567
Index No. 604077/07

Brent Kopenhaver, 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 April 28, 2010 (mot. seq. nos. 006, 007),

And plaintiffs-appellants having moved to supplement the record on appeal to include certain exhibits attached to the affirmation of Theodore J. McEvoy,

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:


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 September 30, 2010.

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

-----X
Saif Robert Rahman,

Plaintiff-Respondent,

-against-

M-3998
Index No. 350031/07

Mehvish M. Rahman,

Defendant-Appellant.
-----X

Defendant 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 November 18, 2009 (mot. seq. no. 009),

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 January 2011 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 September 30, 2010.

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

-----X
Omni Contracting Company, Inc.,
Plaintiff-Appellant,

-against-

The City of New York, et al.,
Defendants-Respondents.

M-3760
Index Nos. 603812/08
105634/07

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeals from the orders of the Supreme Court, New York County, entered on or about November 18, 2009 (mot. seq. no. 001), March 9, 2010 (mot. seq. no. 002), and June 29, 2010 (mot. seq. no. 003), respectively, and for consolidation of said appeals, 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 permitting appellant to prosecute the appeals upon 10 copies of one record and of one set of appellant's points covering the appeals. The time in which to perfect the consolidated appeals is enlarged to the February 2011 Term.

ENTER:

Elva Iris Castro
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 September 30, 2010.

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

-----X

In the Matter of the

Estate of Carl Levine,

M-4097

Surrogate's Court

File No. 4620/04

Caren Stanley,
Respondent,

David Fink,
Non-Party Appellant.

-----X

Appeals having been taken from orders of the Surrogate's Court, New York County, entered on or about June 9, 2009 and on or about December 23, 2009, respectively,

And respondent Caren Stanley having moved to dismiss the aforesaid appeal taken from the order entered on or about December 23, 2009 or, in the alternative, to adjourn the perfected appeal taken from the order entered on June 9, 2009, or 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 adjourning the perfected appeal taken from the order entered on June 9, 2009 to the February 2011 Term and dismissing the appeal taken from the order entered on December 23, 2009 unless said appeal is perfected for said February 2011 Term. If said appeal from the order entered on December 23, 2009 is so perfected the Clerk is directed to place both appeals for hearing together on the same day of said February 2011 Term. Upon failure to so perfect, an order dismissing the appeal from the order entered on December 23, 2009 may be entered ex parte, provided respondent serves a copy of this order upon the appellant within 10 days after the date of entry hereof.

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 September 30, 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 the Application of

Carlos Santiago,
Petitioner-Appellant,

-against-

M-3845
Index No. 260559/08

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

Petitioner-appellant having moved for consolidation of the appeals taken from the orders of the Supreme Court, Bronx County, entered on or about July 30, 2009, May 14, 2010 and June 30, 2010, respectively, and 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 permitting appellant to prosecute the appeals upon 10 copies of one record and of one set of appellant's points covering the appeals and enlarging the time in which to perfect the consolidated appeal to the January 2011 Term.

ENTER:

Elva Iris Castro
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 September 30, 2010.

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

-----X
Robert Bay,
Plaintiff-Respondent-Appellant,

-against-

M-3880
M-3985
Index No. 112470/05

JSK Construction Corp.,
Defendant-Appellant-Respondent,

Saint Vincents Catholic Medical
Centers of New York, 450 Westside
Partners, LLC, MAX/FW Management,
LLC, Max Capital Management Corp.
and V.I.P. Relocations, Ltd.,
Defendants-Respondents-Respondents.

-----X
Plaintiff-respondent-appellant having moved (M-3880) 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 21, 2009 (mot. seq. no. 006),

And defendant-appellant-respondent JSK Construction Corp. having cross-moved (M-3985) for an enlargement of time in which to perfect their appeal from the aforesaid order,

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

It is ordered that the motion and cross-motion are granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the March 2011 Term. The attention of the parties is directed to Rule 600.11(d) of this Court with respect to a joint record and costs thereof.

ENTER:

Elva Iris Castro

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 September 30, 2010.

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

-----X
Mia Henderson-Jones, Individually and
Mia Henderson-Jones, as a Mother and
Natural Guardian of Enaijah Jones,
an infant,
Plaintiffs-Appellants,

-against-

The City of New York, Raymond W. Kelly,
as Police Commissioner of the City of
New York and Police Officers and/or
Detectives 3, 4, 5, 6, 7, 8, 9, 10,
the true names and identities of such
Defendants being unknown to Plaintiffs,
the parties intended being those
individuals who accompanied Detective
Sierra into plaintiff's apartment in
the illegal acts hereinafter alleged,
Defendants-Respondents,

M-4024
Index No. 115360/06

-and-

Detective Sierra, Badge Number 2489
and Sgt. Wendy Gomez Smith,
Defendants,

-and-

Cyrus Vance, District Attorney,
New York County,
Non Party-Respondent.

-----X

Plaintiffs-appellants having moved for an order enlarging the time in which to perfect the appeals from orders of the Supreme Court, New York County, entered on or about December 1, 2009 (mot. seq. no. 005) and June 1, 2010 (mot. seq. no. 006), respectively,

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 appeals, which are, sua sponte, consolidated, to on or before December 6, 2010 for the February 2011 Term. Appellant is permitted to prosecute the appeals upon ten copies of one record and one copy of appellants' points covering the aforesaid appeals.

ENTER:

A handwritten signature in black ink that reads "Elva Iris Castro". The signature is written in a cursive, flowing style.

DEPUTY CLERK
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 September 30, 2010.

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

-----X
Hector Gonzalez,

Petitioner-Appellant,

-against-

M-3723
Index No. 400384/10

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

-----X

Petitioner having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about June 21, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, for assignment of appellate counsel, and for other relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the attorney for respondent and file 10 copies of such brief, together with the original record, with this Court. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record. The motion is otherwise denied.

ENTER:

Elva Iris Castro

DEPUTY CLERK
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 September 30, 2010.

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

-----X
Christopher Ndiwe,
Plaintiff-Appellant,

-against-

M-3856
Index No. 105253/05

City of New York,
Defendant-Respondent.

-----X

Plaintiff having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about May 24, 2010 (mot. seq. no. 002), for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for other relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the attorney for respondent and file 10 copies of such brief, together with the original record, with this Court. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record.

ENTER:

Elva Iris Castro

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 September 30, 2010.

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

-----X

Peter Voutsas,
Plaintiff-Appellant,

-against-

M-4044
Index No. 109888/07

Blake N. Soper, et al.,
Defendants-Respondents.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 5, 2009,

And plaintiff having moved for leave to file a supplemental record on appeal to include 1) the affidavit of Yvonne Saronitman and its exhibit, 2) a certified copy of the order of the Circuit Court, of the Second Circuit, State of Hawaii entered June 26, 1998, and 3) and an Internal Revenue Service form 1099 for tax year 2009 issued by defendant Kurt Gaum, Inc. to plaintiff,

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

It is ordered that the motion is granted only to the extent of permitting plaintiff to supplement the record to include the IRS form 1099, issued by Kurt Gaum, Inc. to plaintiff for the tax year 2009. The motion is otherwise denied.

ENTER:

Elva Iris Castro

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 September 30, 2010.

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

-----X
CDR Créances S.A.S., as Successor to
Société de Banque Occidentale,
Plaintiff-Respondent,

-against-

Maurice Cohen,
Defendant-Appellant.

M-3889
M-3890
Index No. 109565/03

Summerson International Establishment,
et al.,
Defendants.

-----X
CDR Créances S.A.S.,
Plaintiff-Respondent,

-against-

Leon Cohen, also known as Leon Levy,
also known as Leon Levy Cohen,
also known as Leon Cohen Levy,
also known as Leon Cohen-Levy,
also known as Leon Levy-Cohen,
also known as Levy Cohen,
also known as Levy Leo Cohen,
also known as Leo Cohen,
also known as Levy Cohen Levy,
also known as Leon Comen;
Maurice Cohen, also known as Mauricio Assor,
also known as Mauricio Cohen Assor,
also known as Maurice Assor;
Sonia Cohen; Robert Maraboeuf and
Allegria Achour Aich,
Defendants-Appellants,

Index No. 600448/06

Iderval Holding, Ltd., et al.,
Defendants.

-----X

September 30, 2010

Plaintiff-respondent having moved by separate motions to dismiss the appeals taken from the orders of the Supreme Court, New York County, entered on or about June 1, 2010 (mot. seq. nos. 30 and 37),

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

It is ordered that the motions are granted unless appellant perfects the appeals, which are sua sponte consolidated, on or before November 8, 2010 for the January 2011 Term. Upon failure to so perfect, an order dismissing the appeals may be entered ex parte, provided that plaintiff-respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof.

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 September 30, 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 the Application of
Claude Stephens,
Petitioner-Appellant,

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

M-3606
Index No. 10744/09

-against-

State of New York, State University
of New York Downstate Medical
Center,
Respondent-Respondent.

-----X

Petitioner-appellant 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 July 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 to the extent of enlarging the time in which to perfect the appeal to the January 2011 Term.

ENTER:

Elva Iris Castro

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 September 30, 2010.

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

-----X
Albert Ramirez, an infant by Mother
and Natural Guardian, Ines Garcia
and Ines Garcia, Individually,

Plaintiff-Appellant,

-against-

M-3911
Index No. 350187/08

AMC Entertainment, Inc. and AMC
Bay Plaza Cinemas, Inc.,

Defendants-Respondents.
-----X

Plaintiff-appellant 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 13, 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 January 2011 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 September 30, 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 the Application of

Stephanie Devins,
Petitioner,

For a Judgment, etc.,
-against-

M-4095
Index No. 402538/08

Tino Hernandez, as Chairman of the
New York City Housing Authority,
et al.,
Respondents.

-----X

An Article 78 proceeding to review a determination of respondents, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about May 29, 2009,

And an order of this Court having been entered June 22, 2010 (M-2558) DC# 55 granting petitioner an enlargement of time in which to perfect the aforesaid proceeding and directing counsel to so perfect,

And counsel for petitioner having moved for a further enlargement of time in which to perfect the aforesaid proceeding, to withdraw as 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 petitioner's time in which to perfect the proceeding is enlarged to the February 2011 Term. The motion is otherwise denied.

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 September 30, 2010.

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

-----X
Carlos Vega,
Plaintiff-Respondent,

-against-

M-4116
Index No. 112548/05

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

Defendant-appellant 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 21, 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 January 2011 Term.

ENTER:


Clerk.
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 September 30, 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 the Application of

Stephanie Devins,
Petitioner,

For a Judgment, etc.,
-against-

M-4095
Index No. 402538/08

Tino Hernandez, as Chairman of the
New York City Housing Authority,
et al.,
Respondents.

-----X

An Article 78 proceeding to review a determination of respondents, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about May 29, 2009,

And an order of this Court having been entered June 22, 2010 (M-2558) DC# 55 granting petitioner an enlargement of time in which to perfect the aforesaid proceeding and directing counsel to so perfect,

And counsel for petitioner having moved for a further enlargement of time in which to perfect the aforesaid proceeding, to withdraw as 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 petitioner's time in which to perfect the proceeding is enlarged to the February 2011 Term. The motion is otherwise denied.

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 September 30, 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 the Application of
Claude Stephens,
Petitioner-Appellant,

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

M-3606
Index No. 10744/09

-against-

State of New York, State University
of New York Downstate Medical
Center,
Respondent-Respondent.

-----X

Petitioner-appellant 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 July 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 to the extent of enlarging the time in which to perfect the appeal to the January 2011 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 September 30, 2010.

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

-----X
Morrison Cohen LLP,
Plaintiff-Respondent,

-against-

M-4527
Index No. 104100/09

David Fink,
Defendant-Appellant.

-----X
An appeal having been taken by defendant, from the order of the Supreme Court, New York County, entered on or about January 7, 2010 and from the judgment of said court entered on or about January 12, 2010, respectively,

And an order of this Court having been entered on August 31, 2010 (M-3899) directing defendant to excise certain pages of the record, striking defendant-appellant's brief and directing defendant to refile, without further fee, a revised brief for the December 2010 Term of this Court,

And plaintiff-respondent having moved for reargument of the aforesaid order (M-3899) to the extent of ordering defendant to file his revised brief for the November 2010 Term,

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:

Elva Iris Castro
DEPUTY CLERK

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

BEFORE: Hon. Peter Tom
Justice of the Appellate Division

-----x

The People of the State of New York,

Appellant,

-against-

David Holland,

Defendant-Respondent.

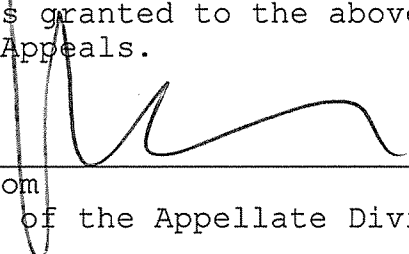
-----x

M-3619A
Ind. No.498/08

CERTIFICATE
GRANTING LEAVE TO APPEAL
TO THE COURT OF APPEALS

I, Peter Tom, a Justice of the Appellate Division, Supreme Court, First Department, do hereby certify that in the record and proceedings herein* questions of law are involved which ought to be reviewed by the Court of Appeals and pursuant to CPL 460.20, it is

ORDERED that permission hereby is granted to the above-named respondent to appeal to the Court of Appeals.



Peter Tom
Justice of the Appellate Division

Dated: August 12, 2010
New York, New York

ENTERED: **SEP 30 2010**

*Description of Order:

Supreme Court, New York County, entered on November 26, 2008.
App. Div., First Dept., Appeal No. 2355, Revd on June 10, 2010.

Notice: Within 10 days from the issuance of this certificate, a preliminary appeal statement must be filed with the Clerk of the Court of Appeals pursuant to Rule 500.9 of the Court of Appeals Rules.

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

BEFORE: Hon. Peter Tom
Justice of the Appellate Division

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

M-2787
Ind. No. 3617/03


-against-

CERTIFICATE
DENYING LEAVE

Michael J. Stuart,

Defendant.
-----X

I, Peter Tom, 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 21, 2010 is hereby denied.



Hon. Peter Tom
Associate Justice

Dated: September 17, 2010
New York, New York

ENTERED SEP 30 2010

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

BEFORE: Hon. Leland G. DeGrasse
Justice of the Appellate Division

-----X

The People of the State of New York,

M-4071

Ind. No. 583/93

-against-

ORDER DENYING LEAVE
UPON REARGUMENT

Raymond Douglas, Defendant.

-----X

I, Leland G. DeGrasse, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application made by the above-named defendant for reargument of the order of a Justice of this Court (M-1308), entered on May 27, 2010, which denied his motion for a certificate pursuant to Criminal Procedure Law, section 460.15, and no question of law or fact having been misapprehended or overlooked, permission to reargue the denial of leave to appeal from the order of the Supreme Court, New York County, entered on or about February 4, 2010, is hereby denied.



Leland G. DeGrasse
Justice of the Appellate Division

Dated: September 7, 2010
New York, New York

ENTERED SEP 30 2010

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-4482
Ind. No. 5073/96

-against-

CERTIFICATE
DENYING LEAVE

Manuel Martinez,

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 Criminal Procedure Law, section 440.10, 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, pursuant to the above cited provision, and permission to appeal from the order of the Supreme Court, New York County, entered on or about July 23, 2010 is hereby denied.



Hon. Helen E. Freedman
Associate Justice

Dated: September 17, 2010
New York, New York

ENTERED: **SEP 30 2010**

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

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

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

Respondent,

M-4283

Index No. 7044/00

-against-

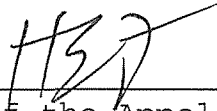
CERTIFICATE
GRANTING LEAVE TO APPEAL

Orlando Medina,

Defendant - Appellant.
-----x

I, Helen E. Freedman, a Justice of the Appellate Division, Supreme Court, First Department, do hereby certify that in the record and proceedings herein* questions of law are involved which ought to be reviewed by the Appellate Division, First Department and pursuant to CPL 460.15, it is

ORDERED that permission hereby is granted to the above-named appellant to appeal to the Appellate Division, First Department.



Justice of the Appellate Division

Dated: September 20, 2010
New York, New York

ENTERED: **SEP 30 2010**

*Description of Order:

Supreme Court, New York County, entered on April 19, 2010.

Notice: Within 10 days from the issuance of this certificate, a preliminary appeal statement must be filed with the Clerk of the Court of Appeals pursuant to Rule 500.9 of the Court of Appeals Rules.

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

BEFORE: Hon. Nelson S. Román
Justice of the Appellate Division

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

-against-

Michael Velez,

Defendant.
-----X

M-4035
Ind. No. 00166/03
5513/02
CERTIFICATE
DENYING LEAVE

I, Nelson S. Román, 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, rendered on or about July 15, 2010 is hereby denied.



Associate Justice

Dated:

SEP 30 2010
New York, New York

ENTERED:

SEP 30 2010

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

SEP 30 2010

Peter Tom,	Justice Presiding,
Richard T. Andrias	
John W. Sweeny, Jr.	
Leland G. DeGrasse	
Rosalyn H. Richter,	Justices.

-----x

In the Matter of Robert J. Barsch
(admitted as Robert Joseph Barsch),
a suspended attorney:

Departmental Disciplinary Committee for the First Judicial Department, Petitioner,	M-3334
--	--------

Robert J. Barsch,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Robert J. Barsch, 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
January 18, 1989.

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

Quadrino Schwartz (Nathaniel E. Burney, of counsel),
for respondent.

M-3334 - July 12, 2010

IN THE MATTER OF ROBERT J. BARSCH - A SUSPENDED ATTORNEY

PER CURIAM

Respondent, Robert J. Barsch, was admitted to the practice of law in the State of New York by the Second Judicial Department on January 18, 1989, under the name Robert Joseph Barsch. At all times relevant to this proceeding, respondent has maintained an office for the practice of law within the First Judicial Department.

Previously, this Court suspended respondent from the practice of law until further order due to his failure to cooperate with the Departmental Disciplinary Committee's investigation of allegations of respondent's professional misconduct and based upon uncontested evidence of misconduct that threatened the public interest (*Matter of Barsch*, 62 AD3d 42 [2009]). The Committee had presented uncontested evidence that respondent misappropriated escrow funds.

In July 2009, respondent was charged by indictment with one count of grand larceny in the second degree in violation of Penal Law § 155.40(1), a class C felony. On March 31, 2010, respondent pleaded guilty to the indictment. Specifically, respondent admitted in his plea allocution that he stole property having a value in excess of \$50,000 from another person. Respondent further admitted that he effected the theft by transferring money

to himself and that he was not entitled to the money. The Committee now seeks an order striking respondent's name from the roll of attorneys on the ground that he was automatically disbarred based on his conviction of a felony as defined by Judiciary Law § 90(4)(e). Although his counsel was served with copies of the notice of petition and petition, respondent has not appeared in this proceeding.

Respondent ceased to be an attorney in New York upon his conviction of a felony (Judiciary Law § 90[4][a]; *Matter of Berenholtz*, 40 AD3d 162 [2007]).

Accordingly, the petition should be granted and respondent's name stricken from the roll of attorneys authorized to practice law in the State of New York nunc pro tunc to March 31, 2010 (see Judiciary Law § 90[4][b]).

All concur.

Order filed.

David Friedman,
Eugene Nardelli
Karla Moskowitz
Helen E. Freedman
Sallie Manzanet-Daniels,

Justice Presiding,

Justices.

-----x

In the Matter of Brian C. O'Shaughnessy
(admitted as Brian Charles O'Shaughnessy),
an attorney and counselor-at-law:

Departmental Disciplinary Committee
for the First Judicial Department,
Petitioner,

M-2104

Brian C. O'Shaughnessy,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Brian C. O'Shaughnessy, 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
March 3, 1986.

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

No appearance for respondent.

M-2104 (May 14, 2010)

IN THE MATTER OF BRIAN C. O'SHAUGHNESSY, AN ATTORNEY

PER CURIAM

Respondent Brian Charles O'Shaughnessy was admitted to the practice of law in the State of New York by the First Judicial Department on March 3, 1986; he was also admitted to the Bar of Connecticut. He has not maintained an office for the practice of law in New York, and is currently incarcerated in Connecticut.

On August 8, 2008, respondent pleaded guilty to four Connecticut felonies: enticing a minor by computer, in violation of Connecticut General Statutes (CGS) § 53a-90a; risk of injury to a child, in violation of CGS § 53-21(a)(1); attempt to entice a minor by computer, in violation of CGS §§ 53a-49/53a-90a; and attempt to commit risk of injury to a child, in violation of CGS §§ 53a-49/53-21(a)(1). The first two charges arose out of respondent's sexual conversations, in an internet chat-room and over the telephone, with a 14-year-old girl in Kentucky. The second two charges arose out of respondent's sexual conversations, also in an internet chat room and over the telephone, with a Pennsylvania undercover officer posing as a 13-year-old girl; in addition, respondent sent the undercover officer pornographic pictures over the internet.

On October 24, 2008, respondent was sentenced to a total term of 10 years' imprisonment, with execution suspended after 18

months, 15 years' probation, and certain conditions, including registering as a sex offender, refraining from internet use, refraining from contact with the victim, and restitution of the victim's out-of-pocket psychiatric expenses.

The Connecticut Chief Disciplinary Counsel commenced a proceeding against respondent, culminating in respondent's agreement to a suspension, retroactive to his sentencing date and continuing until the conclusion of his probation, at which point he would be eligible for reinstatement. The Connecticut Superior Court issued an order to that effect on May 19, 2009. Respondent failed to notify the Departmental Disciplinary Committee (Committee) of his conviction, as required by Judiciary Law § 90(4)(c) and 22 NYCRR 603.12(f).

The Committee now petitions for an order, pursuant to the doctrine of reciprocal discipline (22 NYCRR 603.3), disciplining respondent predicated upon similar discipline imposed by Connecticut (*see Matter of Harris*, 37 AD3d 90 [2006]).

We find that imposing disbarment, based on the discipline imposed in Connecticut, is appropriate and is in accord with this Court's precedent. Respondent was provided with notice and was represented by counsel in the Connecticut disciplinary proceeding. The proof was adequate, in that he admitted to the charges, which were premised on his criminal convictions. Respondent's plea admission that he sent pornographic images over

the internet to an undercover officer whom he believed to be a 13-year-old with whom he had internet and telephone conversations, together with his conviction of attempting to entice that person to engage in sexual activity, would constitute the New York class E felony of attempted disseminating indecent material to minors in the first degree [PL §§ 110.00/235.22], and thereby result in automatic disbarment (see *Matter of Stark*, 309 AD2d 4 [2003]). The instant case entails more egregious conduct, and fewer mitigating circumstances, than *Matter of Lever* (60 AD3d 37 [2008]) inasmuch as respondent not only engaged in sexual conversations with an undercover officer, as in *Lever*, but also with an actual minor. Thus, a minor was placed at risk, and there was more than an isolated incident.

We deny the petition, however, to the extent it seeks suspension co-extensive with the 15-year term of criminal probation. This Court does not impose suspensions of 15 years, as requested by the Committee, because a disbarment lasts 7 years, at which point an attorney may petition for reinstatement (see 22 NYCRR 603.14[a][2]). At such time, the Committee would have an opportunity to oppose the application (see 22 NYCRR 603.14[f]), and any continuing period of criminal probation would be a factor for this Court to consider.

Accordingly, the Committee's petition should be denied to the extent that it seeks to impose a sanction of a suspension

coextensive with the 15-year term of criminal probation, and granted to the extent that it seeks findings of misconduct and an alternate sanction, and respondent is disbarred from the practice of law, effective the date hereof, and until further order of this Court.

All concur.

Order filed.

PM ORDERS

ENTERED

SEPTEMBER 28, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in in the County of New York on September 28, 2010.

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

-----X
In the Matter of Sharmese L. Hodge,
Assistant State's Attorney, Judicial
District of Danbury, State of
Connecticut for the Appearance of
David Morganelli before the Superior
Court for the Judicial District of
Danbury, State of Connecticut.

M-4611
Index No. 30124/10

Cyrus R. Vance, Jr., District
Attorney, New York County,
Petitioner-Respondent,

David Morganelli,
Respondent-Appellant.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about September 10, 2010,

And respondent-appellant having moved for a stay of the aforesaid order compelling him to testify in a certain criminal proceeding in the Superior Court for the Judicial District of Danbury, State of Connecticut, 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 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 September 28, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
Eugene Nardelli
James M. McGuire
Sheila Abdus-Salaam, Justices.

-----X
Bank of America, N.A., et al.,
Plaintiffs-Respondents,

-against-

PSW NYC LLC,
Defendant-Appellant.
-----X

M-4723
Index No. 651293/10

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about September 16, 2010,

And defendant-appellant having moved for an order staying enforcement of or vacating the aforesaid order so as to allow defendant-appellant to sell the subject properties upon posting of an undertaking or staying further foreclosure proceedings pending hearing and determination of the aforesaid 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.