

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 November 29, 2011.

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

-----X  
Lesrey Company, et al.,  
Plaintiffs-Respondents,

-against-

M-4302X  
Index No. 601416/08

281 Broadway Holdings, LLC,  
Defendant-Appellant,

Landesbank Hessen-Thuringen Girozentrale,  
Defendant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 28, 2011 (mot. seq. no. 002),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 15, 2011, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 November 29, 2011.

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

-----X  
Carmelo Crespo,  
Plaintiff-Respondent,

-against-

M-4303X  
Index No. 300247/09

Christopher Court Housing Company  
Limited Partnership,  
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about March 18, 2011,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 21, 2011, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 November 29, 2011.

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

-----X  
The East Drive Housing Development  
Fund Corporation, et al.,  
Plaintiffs-Respondents,

-against-

M-4304X  
Index No. 106310/06

2283 Third Avenue Associates, LLC.,  
et al.,  
Defendants-Respondents.

-----  
2282 Third Avenue Associates, LLC.,  
et al.,  
Third-Party Plaintiffs-Respondents,

-against-

Third-Party  
Index No. 7590226/07

Parkside Construction Contractors  
Third-Party Defendants,

Blue Sky Design, Inc.,  
Third-Party Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 21, 2011 (mot. seq. no. 005),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 21, 2011, 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 November 29, 2011.

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

-----X  
AllianceBernstein, L.P.,  
Plaintiff-Respondent,

-against-

M-4341X  
Index No. 651486/11

Peter A. Gelwarg and Kenneth A. Mayer,  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 1, 2011,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 22, 2011, 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 November 29, 2011.

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-4418**

Ind. No. 70/06

Benito Acevedo,

Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about October 26, 2010,

Now, upon reading and filing the stipulation of the parties hereto, dated September 23, 2011, 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 November 29, 2011.

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

-----X  
First Avenue Farmers Market, LLC,  
doing business as Le Gourmet,  
Plaintiff-Respondent,

-against-

M-4532X  
Index No. 116745/10

Henry J. Kassis, 1267 First Avenue LLC  
and Kassis Management, Inc.,  
Defendants-Appellants.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 1, 2011,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 5, 2011, 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 November 29, 2011.

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

-----X  
Sandalwood Debt Fund A, L.P., etc.,  
et al.,  
Petitioners-Respondents,

-against-

M-4563X  
Index No. 651441/10

J. Ezra Merkin,  
Respondent-Appellant.

-----X

An appeal having been taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about May 4, 2011,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 6, 2011, 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 November 29, 2011.

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

-----X  
Edwin Rivera, et al.,  
Plaintiffs-Respondents,

-against-

M-4856X  
Index No. 14590/06

Psilos Cab Corp. and Abdelaziz Moumen,  
Defendants-Appellants,

Jacqueline Santos, et al.,  
Defendants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about October 29, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 21, 2011, 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 November 29, 2011.

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

-----X

Rosa Rosero,  
Plaintiff-Respondent,

-against-

M-4857X  
Index No. 401003/04

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

Slattery Associates, Inc.,  
Defendant-Appellant.

-----  
(And a third-party action)

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 2, 2011,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 21, 2011, 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 November 29, 2011.

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

-----X

Kelly L. Walker-White,

Plaintiff-Respondent,

-against-

**M-4177**

Index No. 101069/07

New York City Transit Authority,

Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 13, 2010,

And defendant-appellant having moved for an order withdrawing the aforesaid appeal,

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

Ordered that the motion is granted and the appeal is deemed withdrawn.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

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

-----X

Biscuits and Bath Tribeca LLC,

Plaintiff-Respondent,

-against-

Freund, Freund & Co., Inc.,

Defendant-Appellant.  
-----X

**M-4396**

Index No. 603826/07

An appeal having been taken from the order of the Supreme Court, New York County, on or about May 9, 2011 (mot. seq. no. 005),

Now, upon reading and filing the stipulation of the parties hereto, dated September 16, 2011, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the October 2011 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 November 29, 2011.

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

-----X  
Tower Insurance Company of New York,  
Plaintiff-Appellant,

-against-

**M-4481**  
Index No. 114978/09

Luis Construction, Inc. and Sharon  
Wellington,  
Defendants,

-and-

Nola Francis,  
Defendant-Respondent.

-----X

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about October 14, 2010 and June 24, 2011 (mot. seq. no. 002), respectively,

Now, upon reading and filing the stipulation of the parties hereto, filed October 4, 2011, and due deliberation having been had thereon,

It is ordered that the appeals, previously perfected for the October 2011 Term, are 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 November 29, 2011.

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

-----X  
Evolution CDC SPV Ltd., et al.,  
Plaintiffs-Respondents,

-against-

**M-4406**  
Index No. 650749/09

CDC Corporation,  
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 15, 2010,

Now, upon reading and filing the stipulation of the parties hereto, filed September 27, 2011, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the November 2011 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 November 29, 2011.

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

-----X  
Financial Guaranty Insurance Company,

Plaintiff-Respondent-Appellant,

-against-

**M-4845**

Index No. 650736/09

Countrywide Home Loans, Inc., et al.,

Defendants-Appellants-Respondents.  
-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 21, 2010,

Now, upon reading and filing the stipulation of the parties hereto, filed October 20, 2011, and due deliberation having been had thereon,

It is ordered that the appeal and cross appeal, previously perfected for the September 2011 Term, are 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 November 29, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
John W. Sweeny, Jr.  
Sheila Abdus-Salaam  
Nelson S. Román, Justices.

-----X

Jung Ja Cho & Byung Mo Cho,  
Plaintiffs-Respondents,

-against-

**M-4138**

Index No. 407148/07

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

-and-

City of New York,  
Defendant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 13, 2011 (mot. seq. no. 02),

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

Now, upon reading and filing the papers with respect to the motion, and the correspondence from counsel for defendants-appellants dated September 27, 2011, and due deliberation having been had thereon, it is

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

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in in the County of New York on November 29, 2011.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X

Brenda Melendez,  
Plaintiff-Respondent,

-against-

M-2396  
Index No. 308427/08

The Reichwald-Hiranandani Living  
Trust, et al.,  
Defendants-Appellant.

-----X

A decision and order of this Court having been entered on May 26, 2011 (Appeal No. 5162), unanimously affirming the order of the Supreme Court, Bronx County, entered on or about June 11, 2010,

And defendant-appellant Reichwald-Hiranandani Living Trust, et al., having moved for a stay of trial pending hearing and determination of the appeal,

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

It is ordered that the motion is denied, as moot.

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 November 29, 2011.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
James M. Catterson  
Rosalyn H. Richter  
Nelson S. Román, Justices.

-----X

In the Matter of the Application of Daniel Z. Rapoport and Richard Nadelman, executors of the Estate of Boris Lurie, for a determination as to the validity, construction and effect of the Last Will and Testament of

M-4338  
Surrogate's Court  
File No. 666/08

Boris Lurie,

Deceased.

- - - - -

American Friends of New Communities in Israel, Inc., et al.,

Proposed-Intervenors-Appellants,

Boris Lurie Art Foundation,

Objector-Respondent.

-----X

Appeals having been taken from the order and decree of the Surrogate's Court, New York County, entered on or about May 10, 2010, and from separate orders of the same Court and Surrogate entered on or about May 10, 2010 and August 22, 2011, respectively, and said appeals having been perfected,

And proposed-intervenors-appellants having moved to stay any distribution by the executors of funds from the subject estate to a certain beneficiary, 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

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 November 29, 2011.

Present - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of

Gabriel J., and  
Shawn J.,

Children Under 18 Years of Age Alleged  
to be Neglected Under Article 10 of  
the Family Court Act.

- - - - -  
Administration for Children's Services,  
Petitioner-Respondent,

M-4436  
Docket No. NN27109/10  
NN27110/10

O'Neill H.,  
Respondent-Appellant,

Dainee A.,  
Respondent-Appellant.

- - - - -  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Attorney for the Children.

-----X

Respondent-appellant father O'Neill H. having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about August 1, 2011, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Lewis S. Calderon, Esq., 153-01 Jamaica Avenue, Suite 201, Jamaica, New York 11432, Telephone No. 718-883-1560, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the

record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> **within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order;** and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, **within 60 days** of receipt of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.** (See M-4488, decided simultaneously herewith.)

ENTER:



---

CLERK

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

Present - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of

Gabriel J., and  
Shawn J.,

Children Under 18 Years of Age Alleged  
to be Neglected Under Article 10 of  
the Family Court Act.

- - - - -  
Administration for Children's Services,  
Petitioner-Respondent,

M-4488  
Docket No. NN27109/10  
NN27110/10

O'Neill H.,  
Respondent-Appellant,

Dainee A.,  
Respondent-Appellant.

- - - - -  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Attorney for the Children.

-----X

Respondent-appellant mother Dainee A. having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about August 1, 2011, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Richard L. Herzfeld, Esq., 61 Broadway, Suite 1900, New York, New York 10006, Telephone No. 212-818-9019, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the

record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> **within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order;** and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, **within 60 days** of receipt of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.** (See M-4436, decided simultaneously herewith.)

ENTER:



---

CLERK

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

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

-----X  
In the Matter of the Application of  
338 West 46th Street Realty, LLC,  
Petitioner-Appellant,

For a Judgment, etc,

-against-

M-4079  
Index No. 106941/09

New York State Division of Housing  
and Community Renewal,  
Respondent,

George Morton, Robyn Davis, Edward Eisele,  
Robert Leonardi and Ute Schmid, also  
known as Ute Keyes,  
Respondents-Intervenors-Respondents.

-----x

An appeal having been taken to this Court from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about June 11, 2010, and said appeal having been perfected,

And respondent-intervenors-respondents having moved for dismissal of the aforesaid appeal or, in the alternative, for adjournment of the appeal pending hearing and determination of a certain motion pending before the Civil Court, New York County, and for related relief,

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

It is ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

Present: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
James M. Catterson  
Rolando T. Acosta  
Dianne T. Renwick, Justices.

-----X

Elisa Quezada, an infant, by her mother and natural guardian, Denia Quezada, and Denia Quezada, individually,

Plaintiffs-Respondents,

**M-4036**

Index No. 350516/08

-against-

Mensch Management Inc.,  
Defendant,

-and-

Julio Taveras,  
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about June 11, 2010,

And defendant-appellant having moved for an order staying all proceedings pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from counsel for defendants-appellants dated September 20, 2011, and due deliberation having been had thereon, it is

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

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
Bartolomeo Monda,  
Plaintiff-Respondent,

-against-

M-4893  
Index No. 104884/03

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

-----X  
City of New York,  
Third-Party Plaintiff-Respondent,

-against-

Third-Party  
Index No. 591452/03

Northstar Contracting Corp.,  
also known as Northstar Electrical  
Contracting Corp.,  
Third-Party Defendant-Appellant.

- - - - -  
Elite Contractors Trust of NY and  
NCA Comp, Inc.,  
Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about September 21, 2011 (mot. seq. no. 007)

And appellants Elite Contractors Trust of NY and NCA Comp, Inc. having moved for an order staying the disbursements of settlement funds of the third-party action 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, and the interim relief granted by an order of a Justice of this Court dated October 26, 2011, is hereby vacated.

ENTER:

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

---

CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
Felix Figueroa and Lydea Figueroa,  
Plaintiffs-Appellants-Respondents,

-against-

M-4559  
M-4852  
Index No. 300604/08

Steven Dubner Landscaping Inc.,  
Defendant-Respondent-Appellant,

Filomena Armati,  
Defendant.

-----X

An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about December 8, 2010,

And plaintiffs-appellants-respondents and defendants-respondents-appellants having separately moved (M-4559/M-4852) for an enlargement of time to perfect their respective appeal and cross 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 and cross motion are granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the April 2012 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 November 29, 2011.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
James M. Catterson  
Karla Moskowitz  
Sallie Manzanet-Daniels, Justices.

-----X

Virginia Marie Henneberry,  
Plaintiff-Appellant-Respondent,

-against-

M-4443

M-4600

Index No. 350503/05

Leon Baer Borstein,  
Defendant-Respondent-Appellant.

-----X

Defendant-respondent-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 August 11, 2011 (Appeal Nos. 5106-5111 & M-1929) [M-4443],

And plaintiff-appellant-respondent having cross-moved for leave to appeal to the Court of Appeals from the aforesaid decision and order of this Court [M-4600],

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

It is ordered that the motion and cross motion are denied.

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 November 29, 2011.

Present: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

-----X  
The People of the State of New York  
ex rel. Dwayne Parker-El,  
Petitioner,

-against-

**M-3855**

Case No. 62570C/10

Joanna Davis, Warden, George Motchan  
Detention Center, Rikers Island  
Correctional Facility,  
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 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:



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 November 29, 2011.

Present: Hon. Peter Tom, Justice Presiding,  
James M. Catterson  
Dianne T. Renwick  
Helen E. Freedman  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of

Nasma A.,; Omar B.,; and Fatima B.,

Dependent Children under 18 Years  
of Age Alleged to be Abused and/or  
Neglected Under Article 10 of the  
Family Court Act.

**M-3893**  
Docket Nos. NA25539/09  
NA25540/09  
NA25541/09

-----  
Commissioner of the Administration  
for Children's Services of the City  
of New York,  
Petitioner-Appellant,

Derrick B.,  
Respondent-Respondent,

Karima B.,  
Respondent-Respondent.

-----  
Dorothy Gayle, Esq., Lawyers for  
Children, Attorney for the Child  
Nasma A.,

Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Attorney for the Children Omar B.  
and Fatima B.

-----X

Respondent-respondent father, Derrick B., having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, New York County, entered on or about December 1, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

It is ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, New York 11791, Telephone No. (516) 921-8800, as counsel for purposes of responding to the appeal; (2) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for petitioner-appellant and 8 copies thereof are filed with this Court. (See M-3898 and M-3927, decided simultaneously herewith.)

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

Present: Hon. Peter Tom, Justice Presiding,  
James M. Catterson  
Dianne T. Renwick  
Helen E. Freedman  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of

Nasma A.,; Omar B.,; and Fatima B.,

Dependent Children under 18 Years  
of Age Alleged to be Abused and/or  
Neglected Under Article 10 of the  
Family Court Act.

**M-3898**  
Docket Nos. NA25539/09  
NA25540/09  
NA25541/09

-----  
Commissioner of the Administration  
for Children's Services of the City  
of New York,  
Petitioner-Appellant,

Derrick B.,  
Respondent-Respondent,

Karima B.,  
Respondent-Respondent.

-----  
Dorothy Gayle, Esq., Lawyers for  
Children, Attorney for the Child  
Nasma A.,

Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Attorney for the Children Omar B.  
and Fatima B.

-----X

Respondent-respondent mother, Karima B., having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, New York County, entered on or about December 1, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,



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

It is ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, John J. Marafino, Esq., 9 West Prospect Ave., Suite 409, Mount Vernon, NY 10550, Telephone No. (914) 663-1500, as counsel for purposes of responding to the appeal; (2) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for petitioner-appellant and 8 copies thereof are filed with this Court. (See M-3893 and M-3927, decided simultaneously herewith.)

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

Present: Hon. Peter Tom, Justice Presiding,  
James M. Catterson  
Dianne T. Renwick  
Helen E. Freedman  
Sallie Manzanet-Daniels, Justices.

-----X

In the Matter of

Nasma A.,; Omar B.,; and Fatima B.,

Dependent Children under 18 Years  
of Age Alleged to be Abused and/or  
Neglected Under Article 10 of the  
Family Court Act.

**M-3927**  
Docket Nos. NA25539/09  
NA25540/09  
NA25541/09

-----  
Commissioner of the Administration  
for Children's Services of the City  
of New York,  
Petitioner-Appellant,

Derrick B.,  
Respondent-Respondent,

Karima B.,  
Respondent-Respondent.

-----  
Dorothy Gayle, Esq., Lawyers for  
Children, Attorney for the Child  
Nasma A.,

Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Attorney for the Children Omar B.  
and Fatima B.

-----X

An appeal having been taken from the order of the Family Court, New York County, entered on or about December 1, 2010,

And municipal petitioner-appellant having moved for an enlargement of time in which to perfect the aforesaid appeal,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the March 2012 Term. (See M-3893 and M-3898, decided simultaneously herewith.)

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

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

-----x

Martin A. Charles,  
Plaintiff-Appellant,

-against-

M-4129

M-4180

Index No. 116272/06

Hearth Restaurant Investors, LLC., and  
Misono Food Ltd., doing business as  
Buonoitalia Imported Italian Food,  
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 September 24, 2010 (mot. seq. no. 005),

And defendant-respondent Hearth Restaurant Investors, LLC. (M-4129) and defendant-respondent Misono Food Ltd., etc. (M-4180) having separately moved for dismissal of the aforesaid appeal for failure to timely prosecute,

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 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 November 29, 2011.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Dianne T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of

Justen Andrews S., also known as  
Justen Andre S.,  
and Jessey Andrews S.,

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

**M-4449**  
Docket Nos. B-7984-85/10

-----  
Jewish Child Care Association of  
New York, et al.,  
Petitioners-Respondents,

Benny W., also known as Benny  
William W.,  
Respondent-Appellant.

-----  
Betsy Kramer, Esq.,  
Lawyers for Children, Inc.,  
Attorney for the Children.

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

-----  
Azmara N.G.,  
Petitioner-Appellant,

Docket Nos. V1813-15/09

-against-

Jessica Stephanie S. and the  
Administration for Children's  
Services,  
Respondents-Respondents.

-----X

An appeal having been taken by respondent-appellant Benny W., also known as William W., from the order of the Family Court, Bronx County, entered on or about April 25, 2011 (Docket Nos. B7984-85/10),

And an appeal having been taken by petitioner-appellant, Azmara N.G., from the order of the Family Court, Bronx County, entered on or about March 31, 2011 (Docket Nos. V1813-15/09),

And petitioner agency, Jewish Child Care Association of New York, having moved for an order consolidating the appeals in the aforesaid "B" and "V" matters,

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

Ordered that the motion is granted to the extent of directing the appellants to perfect their respective appeals on the same original record, and the Clerk is directed to calendar the appeals for hearing together when perfected.

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 November 29, 2011.

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

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

- - - - -  
Randy Moquete De La P., Docket Nos. O-12018/10  
Petitioner/Respondent-Appellant, O-16682/10

-against-

Carmen Guillet-Moquete De La P.,  
Respondent/Petitioner-Respondent.  
-----X

Petitioner/respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about September 27, 2011, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Israel P. Inyama, Esq., 244 Fifth Avenue, New York, NY 10001, Telephone No. (646) 595-9090, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> within 30 days (FCA 1121[7]) of service

---

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

**of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order;** and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, **within 60 days** of receipt of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.**

ENTER:

  
CLERK



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

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

-----X

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

Maria C.,  
Petitioner-Appellant,

M-4802  
Docket No. 029579/10

-against-

Jamie G.,  
Respondent-Respondent.

-----X

Respondent-respondent having moved for leave to respond, as a poor person, to the appeal from the order of dismissal of the Family Court, Bronx County, entered on or about August 31, 2011, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

It is ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, John J. Marafino, Esq., 9 West Prospect Avenue, Suite 409, Mount Vernon, New York 10550, Telephone No. 914-663-1500, as counsel for purposes of responding to the appeal; (2) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for petitioner-appellant and 8 copies thereof are filed with this Court.

ENTER:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 9, 2012.

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

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

-----  
Maria C.,  
Petitioner-Appellant,

**M-4802A**  
Docket No. 029579/10

-against-

Jamie G.,  
Respondent-Respondent.

-----X

An order of this Court having been entered on November 29, 2011 (M-4802) assigning John J. Marafino, Esq., as counsel for respondent-respondent for the purposes of responding to the appeal from an order of dismissal of the Family Court, Bronx County, entered on or about August 31, 2011, and said appeal having been perfected,

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

Ordered that the designation of John J. Marafino, Esq., is stricken as counsel to respond to appellant's appeal, and, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, Telephone No. (516) 921-8800, is substituted as counsel to respond to the appeal; and permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for petitioner-appellant and 8 copies thereof are filed with this Court. Sua sponte, the appeal is adjourned to the December 2012 Term. The order of this Court entered on November 29, 2011 (M-4802) is hereby recalled and vacated.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of

Tyjaia Simone-Kiesha Mc.,  
and Elijah Mc.,

M-4837  
Docket Nos. B20797/10  
B20798/10

Dependent Children Under 18 Years of  
Age Pursuant to §384-b of the Social  
Services Law of the State of New York.

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

Crystal Mc.,  
Respondent-Appellant.

-----  
Michael S. Bromberg, Esq.,  
Attorney for the Children.

-----X

Court attorney for the subject children, Patricia Moreno, Esq., having moved for leave to respond, as a poor person, the appeals from the orders of the Family Court, Bronx County, both entered on or about September 8, 2011, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

It is ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Michael S. Bromberg, Esq., 44 Hampton St. Sag Harbor, NY 11963, Telephone No. (631) 725-0641, counsel for purposes of responding to the appeal; (2) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for petitioner-appellant and 8 copies thereof are filed with this Court.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta  
Sheila Abdus-Salaam, Justices.

-----X  
Scott Androvic,  
Plaintiff-Appellant,

-against-

M-4029  
Index No. 106501/07

Metropolitan Transportation  
Authority, et al.,  
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from order of the Supreme Court, New York County, entered on or about November 12, 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 to the extent of enlarging the time in which to perfect the appeal to the March 2012 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 November 29, 2011.

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

-----X  
Wells Fargo Bank, N.A.,  
Plaintiff-Appellant/Respondent,

-against- M-4622  
Index No. 382738/09

June Joan Van Dyke and Patti  
Van Dyke,  
Defendants-Respondents/Appellants,

New York City Environmental Control  
Board, et al.,  
Defendants.

-----X

Separate appeals having been taken to this Court from the orders of the Supreme Court, Bronx County, entered on or about December 17, 2010 and August 25, 2011, respectively,

And plaintiff-appellant/respondent Wells Fargo Bank, N.A. having moved for an enlargement of time in which to perfect the aforesaid appeals, and to consolidate said 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 only to the extent of enlarging the time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on December 17, 2010 to on or before January 3, 2012 for the March 2012 Term. The motion is otherwise denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
David Friedman  
James M. Catterson  
Helen E. Freedman, Justices.

-----X  
Angela Betancourt and Tomasita  
Betancourt, as Administrator of  
the Estate of Richard P. Betancourt,  
Plaintiffs-Respondents,

-against-

M-4556  
Index No. 104905/09

Postal Transport, Inc., et al.,  
Defendants,

Hale Trailer Brake & Wheel, Inc.,  
Defendant-Appellant.

-----X

Defendant-appellant Hale Trailer Brake & Wheel, Inc. 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 4, 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 granted to the extent of enlarging the time in which to perfect the appeal to the April 2012 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 November 29, 2011.

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

-----X  
James Rosenfold,  
Plaintiff-Appellant,

-against-

M-4566  
Index No. 603453/06

The Long Island Railroad Company,  
Defendant-Respondent.

-----X

Defendant-respondent having moved 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 December 20, 2010,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the April 2012 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 November 29, 2011.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta, Justices.

-----X  
Estelle A. Carr, Individually and  
as assignee of Charles Caspar and  
Keith Whitten,  
Plaintiffs-Respondents,

Estate of Royce K. Hoffman,  
Plaintiff-Appellant,

-against-

M-4657  
Index No. 117185/97

Estate of John Gene Mangerino,  
Defendant-Appellant,

Rose A. Caputo, Lil E. Dominguez,  
Philip Mangerino, as Administrator of  
the Estate of John Gene Mangerino  
and Administrator C.T.A.. Of the  
Estate of Frank Bradley, and  
Henry Alpizar, Individually and  
as Executor of the Estate of  
Dan Kampel,  
Defendants-Respondents.

-----X

Appellants Estate of Royce K. Hoffman and Estate of John Gene Mangerino having moved for an enlargement of time in which to perfect their appeal from an order and judgment (one paper) of the Supreme Court, New York County, entered on or about November 12, 2010 (mot. seq. nos. 026-029),

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 April 2012 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 November 29, 2011.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
David Friedman  
James M. Catterson  
Helen E. Freedman, Justices.

-----X  
Juanita Birriel,  
Plaintiff-Appellant,

-against-

M-4778  
Index No. 23328/02

F.L. Smithe Machine Co., Inc.,  
Defendants-Respondents.

- - - - -

(And a third-party action)

-----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 November 18, 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 April 2012 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 November 29, 2011.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta  
Sheila Abdus-Salaam, Justices.

-----x  
247 East 32<sup>nd</sup> LLC, et al.,

Plaintiffs-Respondents,

-against-

M-4624  
Index No. 651609/10

Katherine Gasparich,

Defendant-Appellant.  
-----x

An appeal having been taken to this Court from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about October 13, 2011,

And defendant-appellant having moved for a stay of the aforesaid order and judgment pending hearing and determination of the appeal taken therefrom,

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

It is ordered that the motion is granted on condition the appeal is perfected for the April 2012 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 November 29, 2011.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Dianne T. Renwick  
Nelson S. Román, Justices.

-----X

Ying Jing Yan,  
Plaintiff-Respondent,

-against-

M-3840  
Index No. 311607/08

Ke-en Wang,  
Defendant-Appellant.

-----X

An order of this Court having been entered on July 21, 2011 (M-2330), denying a stay of execution and enforcement of the order of the Supreme Court, New York County, entered on or about May 11, 2011,

And defendant-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the order of this Court entered on July 21, 2011 (M-2330),

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 November 29, 2011.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
James M. Catterson  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X

OrthoTec, LLC,  
Plaintiff-Appellant,

-against-

M-4024  
Index No. 601377/08

Healthpoint Capital, LLC, et al.,  
Defendants-Respondents,

Scient'x, S.A.,  
Defendant.

-----X

Defendants having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 31, 2011 (Appeal No. 5224),

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 November 29, 2011.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Dianne T. Renwick  
Leland G. DeGrasse, Justices.

-----X

Ahead Realty LLC and PJ Associates  
Inc.,

Plaintiffs-Appellants,

**M-3804**

**M-4377**

-against-

Index No. 113929/10

India House, Inc., et al.,  
Defendants-Respondents.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about July 20, 2011, and a separate appeal having been taken from the order of said court and Justice entered on or about August 9, 2011,

And plaintiffs-appellants having moved to "stay and toll" the expiration of a notice of default, and to enjoin defendants from "preventing performance of [a certain] contract by plaintiff PJ Associates [Inc.]", and for related relief pending hearing and determination of the appeal [M-3804],

And plaintiffs-appellants having separately moved for and order striking a Notice of Termination served by defendants-respondents dated September 15, 2011, and for related relief [M-4377],

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

Ordered that motion (M-3804) is granted to the extent of continuing the interim relief granted by an order of a Justice of this Court on August 17, 2011, pending hearing and determination of the aforesaid appeals, which are sua sponte consolidated, on condition that the consolidated appeals be perfected on or before January 3, 2012 for the March 2012 Term, and the motion is otherwise denied and it is,

Ordered that motion (M-4377) is deemed to be a motion to stay defendants from taking any action in furtherance of the aforesaid Notice of Termination dated September 15, 2011, and as such is granted, in accordance with, to the same extent and upon the same terms, as the aforesaid motion (M-3804), [supra.], and is otherwise denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 29, 2011.

Present - Hon. David B. Saxe, Justice Presiding,  
David Friedman  
Rolando T. Acosta  
Leland G. DeGrasse  
Rosalyn H. Richter, Justices.

-----X

Victor K. Kiam, III, et al.,

Plaintiffs-Appellants,

-against-

M-4619

Index No. 601424/07

Park & 66<sup>th</sup> Corporation, et al.,

Defendants-Respondents.

-----X

Plaintiffs-appellants having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on September 15, 2011 (Appeal Nos. 4487-4487A),

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 November 29, 2011.

Present: Hon. David B. Saxe, Justice Presiding,  
David Friedman  
Dianne T. Renwick  
Leland G. DeGrasse  
Helen E. Freedman, Justices.

-----X

David Robards, et al.,

Plaintiffs,

-against-

**M-5108**

Index No. 112291/11

The State of New York, et al.,

Defendants.

-----X

(And another action)

Plaintiffs having moved, pursuant to CPLR 5704(a), for affirmative relief denied by a Justice of the Supreme Court, New York County, on or about October 31, 2011,

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 November 29, 2011.

Present - Hon. David B. Saxe, Justice Presiding,  
John W. Sweeny, Jr.  
Leland G. DeGrasse  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----x  
Robert Retta, et al.,  
Plaintiffs-Respondents,

-against-

160 Water Street Associates, L.P.,  
et al.,  
Defendants-Appellants,

M-4345  
Index No. 406411/07

-and-

OneSource N.Y., Inc., et al.,  
Defendants-Respondents.

-----x

Appeals having been taken to this Court from the order and judgment of the Supreme Court, New York County, entered on or about April 12, 2011 (mot. seq. no. 004) and July 18, 2011, respectively, and said appeals having been perfected,

And defendant-respondent OneSource N.Y., Inc. having moved for dismissal of the appeal from the order entered on or about April 12, 2011, as untimely taken (CPLR 5513); to dismiss the appeal from the order entered on or about July 18, 2011; for leave to file a supplemental record on appeal to include the order with notice of entry served by OneSource on April 19, 2011, 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 defendant-respondent OneSource N.Y., Inc., to file a supplemental appendix, and the motion is otherwise denied, without prejudice to raising arguments upon hearing of the appeals. Sua sponte, the appeals are adjourned to the March 2012 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 November 29, 2011.

PRESENT: Hon. Karla Moskowitz, Justice Presiding,  
Dianne T. Renwick  
Leland G. Degrasse  
Sheila Abdus-Salaam  
Nelson S. Román, Justices.

-----X

Ronald Warnick,  
Plaintiff-Respondent,

-against-

M-4643  
Index No. 17576/07

1211 Southern Boulevard LLC, Voodo  
Contracting Corp., doing business as  
Universal Contracting Co.,  
Defendants-Respondents,

Universal Ceiling Ltd.,  
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about August 12, 2011,

And defendant-appellant having moved for an order staying the trial in the above-entitled action 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