

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 26, 2019.

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

-----X

Patrick McMahon,
Plaintiff-Respondent,

-against-

M-2233

Index No. 156669/12

New York Organ Donor Network,
Defendant-Appellant.

Center for Donation and Transplant,
Upstate New York Transplant Services, Inc.,
NJ Sharing Network, Southwest Transplant
Alliance, Inc., Donor Network West and
Nebraska Organ Recovery,
Amici Curiae.

-----X

Defendant-appellant having moved for clarification of the decision and order of this Court entered May 29, 2019 (Appeal No. 6710N),

Now, upon reading and filing the correspondence from the attorney for defendant-appellant dated July 17, 2019, and due deliberation having been had thereon,

It is ordered that defendant-appellant's motion for clarification is deemed withdrawn in accordance with the aforesaid correspondence.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X

In the Matter of the Application of,
Alexander P. Kelly,
Petitioner,

M-3535

Index No. 500084/15

For the Appointment of a Guardian for
Mary Patricia Kelly also known as
Mary Ann Kelly,

An Alleged Incapacitated Person.

-----X

Petitioner having moved, pursuant to CPLR 5704, for review of an ex-parte application made in the Supreme Court, New York County, which was denied on or about July 10, 2019, and for various, affirmative injunctive relief,

Now, upon reading and filing the correspondence from counsel for petitioner dated July 30, 2019, and due deliberation having been had thereon,

It is ordered that the motion is deemed withdrawn in accordance with the aforesaid correspondence.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Respondent,

CONFIDENTIAL

M-3643

-against-

Ind. No. 1631/16

Walter Wright,
Defendant-Appellant.

-----X

An order of this Court having been entered on May 22, 2018 (M-1427), granting defendant leave to prosecute, as a poor person, the appeal taken from an order of the Supreme Court, Bronx County, entered on or about January 19, 2018, and assigning Robert S. Dean, Esq., Center for Appellate Litigation, as counsel to prosecute the appeal; and a second motion having been made by Janet Sabel, Esq., The Legal Aid Society, seeking the same relief,

Now, upon reading and filing the correspondence from The Legal Aid Society, dated August 7, 2019, and due deliberation having been had thereon,

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

ENTERED:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X

Nicole Ciorciari,
Plaintiff-Respondent,

-against-

M-3651

Index No. 160213/15

New York City Department of Parks &
Recreation, The City of New York,
World Ice Arena LLC and RD Management,
LLC,

Defendants-Appellants.

-----X

Defendants-appellants having moved for a stay of trial pending the hearing the determination of their appeal taken from an order of the Supreme Court, New York County, entered on or about August 7, 2018,

Now, upon reading and filing the correspondence from the attorney for defendants-appellants dated July 31, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
In the Matter of
Torlisa M.,

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

CONFIDENTIAL

M-3807

Docket No. NN-00122-19

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

Torrance M.,
Respondent-Respondent,

- - - - -
Cristina Manzano, Esq.,
Lawyers For Childrent,
Law Guardian for the Child.

-----X

An appeal having been taken from an order of the Family Court, New York County, entered on or about July 26, 2019,

Now, upon reading and filing the correspondence from Corporation Counsel of the City of New York, dated July 31, 2019, and due deliberation having been had thereon, it is

Ordered that the appeal is withdrawn in accordance with the aforesaid correspondence.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X

Admiral Construction LLC,

Plaintiff-Appellant,

-against-

M-3809X

Index No. 652855/18

Dormitory Authority of the State
of New York,

Defendant-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about March 6, 2019,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" July 29, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Neal Flomenbaum, M.D.,
Petitioner-Appellant,

-against-

M-3811
Index No. 653240/18

Weill Cornell Medical College, et al.,
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 24, 2018,

Now, upon reading and filing the correspondence from counsel to plaintiff-appellant, dated August 1, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Michel Kadosh, individually and as a
Managing member of 213 W. 85th St., LLC,
Plaintiff-Respondent,

-against-

M-3815
Index No. 651834/10

David Kadosh,
Defendant-Appellant,

114 W. 71st St., LLC, 30 Lexington Ave.,
LLC & 3D Imaging Center, Corp.,
Defendants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 14, 2018,

Now, upon reading and filing the correspondence from defendant-appellant David Kadosh, dated July 25, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----x
In the Matter of

Jonathan H.,
A Person Alleged to be
A Juvenile Delinquent,

CONFIDENTIAL
M-3817
Docket No. D-19930/17

Respondent-Appellant.
-----x

An appeal having been taken from the order of the Family Court, Bronx County, entered on or about June 11, 2018,

Now, upon reading and filing the correspondence from assigned counsel for defendant-appellant, dated August 2, 2019, and due deliberation having been had thereon,

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

ENTERED:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X

Arthur Lim Pon,
Plaintiff-Appellant-Respondent,

-against-

M-3818
Index No. 654298/15

GDA Realty Corp.,
Defendant-Respondent-Appellant.

-----X

A cross appeal having been taken by defendant-respondent-appellant from an order of the Supreme Court, New York County, entered on or about April 22, 2019,

Now, upon reading and filing the correspondence from counsel for defendant-respondent-appellant, dated July 29, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Arthur Lim Pon,
Plaintiff-Appellant-Respondent,

-against-

M-3819
Index No. 654298/15

GDA Realty Corp.,
Defendant-Respondent-Appellant.

-----X

An appeal having been taken by plaintiff-appellant from an order of the Supreme Court, New York County, entered on or about April 22, 2019 and from a judgment of the same Court entered on or about May 14, 2019,

Now, upon reading and filing the correspondence from counsel for plaintiff-appellant, dated July 29, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Daniel Mayo, as Administrator of the
Estate of Annette Mayo, Deceased,
Plaintiff-Respondent,

-against-

M-3820
Index No. 805036/12

NYU Hospitals Center, sued herein
as NYU Langone Medical Center,
Defendant-Appellant.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about December 26, 2018,

Now, upon reading and filing the correspondence from counsel to defendant-appellant, dated July 30, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X

Bosco Credit V Trust Series 2012-1,
Plaintiff-Respondent-Appellant,

-against-

Derek Johnson, also known as Derek Q.
Johnson and Susan Josie Crawford,
also known as Susan Crawford Lemelle,
also known as Susan J. Johnson,
Defendants-Appellants-Respondents,

M-3821
Index No. 850218/15

Richard D. Parson, c/o Bank of New
York Mellon, et al.,
Defendants.

-----X

Consolidated appeals having been taken to this Court by defendants-appellants from orders of the Supreme Court, New York County, entered on or about July 10, 2018 (two orders) and April 17, 2019, and from the order and judgment of foreclosure and sale of said court entered on or about February 25, 2019; and a cross appeal having been taken to this Court by plaintiff-respondent-appellant from the order of the same Court, entered on or about July 10, 2018 (mot. seq. no. 002), insofar as it denied its cross motion for sanctions,

Now, upon reading and filing the correspondence from the attorney for plaintiff-respondent-appellant dated July 31, 2019, and due deliberation having been had thereon,

It is ordered that the cross appeal from the order of the Supreme Court, New York County, entered on or about July 10, 2018 (mot. Seq. No. 002), is deemed withdrawn in accordance with the aforesaid correspondence. The consolidated direct appeals remain extant.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Keith Myiow,

Plaintiff-Appellant,

-against-

M-3822
Index No. 305237/11

Port Authority of New York and New Jersey, et al.,

Defendants-Respondents.
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about October 18, 2018,

Now, upon reading and filing the correspondence from the attorney for plaintiff-appellant dated August 1, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Hubert G. Neumann,
Plaintiff-Appellant,

-against-

M-3823
Index No. 652170/18

Sotheby's Inc., et al.,
Defendants-Respondents.

-----X

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

Now, upon reading and filing the correspondence from counsel to plaintiff-appellant, dated August 1, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Daniel H. Weiner,
Plaintiff-Respondent,

-against-

Samer Jaber, M.D., et al.,
Defendants,

M-3828
Index No. 805350/16

-and-

Schweiger Dermatology, PLLC,
Defendant-Appellant.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 5, 2018,

Now, upon reading and filing the correspondence from the attorney for defendant-appellant dated August 1, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Laurence Yavner, as Executor of the
Estate of Stanley J. Yavner and
Phyllis H. Yavner,
Plaintiffs-Respondents,

-against-

M-3829
Index No. 190132/17

American Optical Corp., et al.,
Defendants,

-and-

Fulton Boiler Works, Inc.,
Defendant-Appellant.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about July 1, 2019,

Now, upon reading and filing the correspondence from the attorney for defendant-appellant dated August 2, 2019, and due deliberation having been had thereon,

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Alejandro F. C.,
Petitioner-Respondent,

-against-

Confidential
M-3703

Docket Nos. V-27377/16
V-07551/17

Alexis O.,
Respondent-Appellant

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal taken from an order of the Family Court, Bronx County, entered on or about June 17, 2019, 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 the certification of Ethan Steward, Esq., dated July 17, 2019, 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, Geoffrey Berman, Esq. 2005 Palmer Avenue, Suite No. 176, Larchmont, New York, 10538, Telephone No. 914-419-8407, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor¹ **within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order;** and (4) directing appellant to perfect this appeal, in compliance with Section 1250.9 of the Practice Rules of the Appellate Division, **within 60 days** of the filing of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.**

ENTERED:


CLERK

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Raymond S. H.,
Petitioner-Respondent,

Confidential
M-3732

Docket No. V-34060-15/18B

-against-

Nefertiti S. M.,
Respondent-Appellant.

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal taken from an order of the Family Court, New York County, entered on or about June 13, 2019, 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 the certification of William O'Hern, Esq., dated July 23, 2019, 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, Geoffrey Berman, Esq., 2005 Palmer Avenue, Suite No. 176, Larchmont, New York, 10538, Telephone No. 914-419-8407, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor¹ **within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order;** and (4) directing appellant to perfect this appeal, in compliance with Section 1250.9 of the Practice Rules of the Appellate Division, **within 60 days** of the filing of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.**

ENTERED:


CLERK

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Jamiyla Sade J.,
Petitioner-Appellant,

-against-

Kenneth D.,
Respondent-Respondent.

CONFIDENTIAL

M-6963

Docket Nos. V-21629-12/16A
V-27419-12/16A

-----x
Respondent-respondent having moved for leave to respond, as a poor person, to the perfected appeal (Cal. No. 2018-1603) taken from an order of the Family Court, New York County, entered on or about January 26, 2018, 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 the certification of Elizabeth Callaghan, Esq., dated August 1, 2019, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of (1) assigning, pursuant to §1120 of the Family Court Act, Kenneth M. Tuccillo, Esq., 591 Warburton Avenue, No. 576, Hastings on Hudson, New York, 10701, Telephone No. 914-439-4843, 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 each party to the appeal, and an

original and five hard copies, and if represented by counsel, one digital copy of such brief, are filed with this court, pursuant to 22 NYCRR Section 1250.9. *Sua sponte*, the appeal is adjourned to the December 2019 Term of this Court.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Respondent,

-against-

M-3562
Ind. No. 5403/16

Sandra Zelazny,

Defendant-Appellant.
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about January 25, 2019, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 10005, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Respondent,

-against-

M-3563

Ind. No. 1470/18

Jose Castillo,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about April 18, 2019, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 10005, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X

The People of the State of New York,
Respondent,

-against-

M-3564
Ind. Nos. 865/18
371/19

Michael Williams,
Defendant-Appellant.

-----X

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

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

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

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, 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.

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 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 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Respondent,

-against-

M-3566
Ind. No. 1275/16

Vernon Hubbard,

Defendant-Appellant.
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about April 30, 2019, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 10005, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Respondent,

-against-

M-3567

Ind. No. 2405/17

Roy Clendinen,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about April 4, 2019, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 10005, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

Respondent,

CONFIDENTIAL

M-3716

-against-

Ind. No. 3505/15

Cecil McKenzie,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from the order of the Supreme Court, New York County (Stolz, J.), entered on or about July 16, 2019, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The Clerk of the Supreme Court shall expeditiously make and file with the criminal court (CPL 460.70) one transcript of the stenographic minutes of the SORA hearing and any other proceedings before Justice Stolz as yet not transcribed. The Clerk shall furnish a copy of such transcripts to appellant's counsel, Janet E. Sabel, Esq., The Legal Aid Society, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

(M-3716)

-2-

September 26, 2019

Janet E. Sabel, Esq., The Legal Aid Society, 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X

The People of the State of New York,
Respondent,

-against-

M-3826
SCI No. 266/19

Michael Rosa,
Defendant-Appellant.

-----X

An order of the Supreme Court, Bronx County, having been entered on or about April 10, 2019, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgments of the Supreme Court, Bronx County, rendered on or about April 10, 2019,

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

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

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

Janet E. Sabel, Esq., The Legal Aid Society, 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
Sallie Manzanet-Daniels
Angela M. Mazzarelli
Troy K. Webber
Peter H. Moulton, Justices.

-----X
Rosemarie A. Herman, individually, as
beneficiary of the trust created by
Harold Herman as Grantor under
agreement dated March 1, 1990 and as
beneficiary of the trust created by
Rosemarie A. Herman as Grantor dated
November 27, 1991 and on behalf of
Mayfair York LLC, et al.,
Plaintiffs-Respondents,

M-6842
Index No. 650205/11

-against-

Julian Maurice Herman, et al.,
Defendants-Appellants.

-and-

Michael Offit, et. al.,
Defendants.

-----X
Julian Maurice Herman,
Third-Party Plaintiff,

-against-

Index No. 950354/13

Joseph Esmail and Solita N. Herman,
Third-Party Defendants.

-----X

Appeals having been taken from an orders of the Supreme Court, New York County, (1) entered on or about August 31, 2018, which denied defendants' motion to vacate the judgment entered in this action based on newly discovered evidence; (2) entered on or about October 16, 2018, which granted plaintiff's motion to appoint a receiver and directed that upon transfer of the subject property, plaintiffs shall promptly file a partial satisfaction of judgment; and (3) entered on or about November 20, 2018, which, inter alia, directed the receiver to execute the deed to convey the subject property, and the appeals having been perfected for the October 2019 Term of this Court,

And defendants-appellants having moved to supplement the record on appeal to include "Plaintiffs' Memorandum in Support of Their Motion for the Appointment of a Receiver Pursuant to CPLR § 5228,"

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

It is ordered that the motion is granted to the extent that defendants-appellants are directed to file within seven days of this Court's order on this motion, six copies of the supplemental record on appeal that includes "Plaintiffs' Memorandum in Support of Their Motion for the Appointment of a Receiver Pursuant to CPLR § 5528." Sua Sponte, the appeal is adjourned to the December 2019 Term of this Court

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Rolando T. Acosta, Presiding Justice,
Sallie Manzanet-Daniels
Troy K. Webber
Peter H. Moulton, Justices.

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

New York State Land Title
Association, Inc., et al.,
Petitioners-Respondents,

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

M-6951
Index No. 151562/18

-against-

The New York State Department of
Financial Services, et al.,
Respondents-Appellants.

-----X

An appeal having been taken to this Court by respondents-appellants from an order of the Supreme Court, New York County, entered on or about August 5, 2019, which granted petitioner's Article 78 petition to annul Insurance Regulation 208; and the appeal having been perfected (Cal No. 2019-3439),

And respondents-appellants having moved for a calendar preference for the November 2019 Term,

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

It is ordered that the motion is granted to the extent that the Clerk of the Court is directed to maintain the appeal taken from the order entered on or about August 5, 2019 (Cal No. 2019-3439) on this Court's calendar for the November 2019 Term.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. David Friedman, Justice Presiding,
Judith J. Gische
Barbara R. Kapnick
Anil C. Singh, Justices.

-----X
Allan Landis,
Plaintiff-Appellant,

-against-

M-3684
Index No. 653847/15

383 Realty Corp., Bunita L. Weiner, The
Estate of Bunita Weiner, Ephraim Bulow,
as Trustee of the Sally Carrubba Trust
and Sally Carrubba,
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for reargument of the decision and order of this Court, entered on June 27, 2019 (Appeal No. 9766),

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, upon reargument, the decision and order of this Court entered on June 27, 2019 (Appeal No. 9766) is recalled and vacated and a new decision and order substituted therefor. (See Appeal No. 9766 decided simultaneously herewith.)

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. David Friedman, Justice Presiding,
Judith J. Gische
Troy K. Webber
Ellen Gesmer
Peter H. Moulton, Justices.

-----X
Richard Djeddah,

Plaintiff-Appellant,

-against-

CONFIDENTIAL

M-3368

Index No. 350094/00

Rachel Djeddah,
Defendant-Respondent.

Bruce Feffer and
Goldman & Greenbaum, P.C.,
Non-Party Respondents.

-----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 May 30, 2019 (Appeal No. 9470), and for other relief,

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. David Friedman, Justice Presiding,
Peter Tom
Barbara R. Kapnick
Marcy L. Kahn, Justices.

-----X
Adam Kaplan and Daniel Kaplan,
Plaintiffs-Appellants,

-against- M-3497
Index No. 158060/17

Conway & Conway and Kevin P. Conway,
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 June 6, 2019 (Appeal No. 9558-9558A & M-2347),

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,
Rosalyn H. Richter
Barbara R. Kapnick
Cynthia S. Kern
Anil C. Singh, Justices.

-----X
Manuel Castedo and M. Castedo
Architect, P.C.,
Petitioners-Appellants,

-against-

M-6856
Index No. 652177/19

The Permanent Mission of Thailand To
The United Nations and Richter &
Ratner Contracting Corp.,
Respondents-Respondents.

-----X

Respondents-respondents having moved to adjourn the perfected appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about June 17, 2019,

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

It is ordered that the motion is granted, the perfected appeal is adjourned to the November 2019 Term of this Court, and the arbitration stayed. (See, M-6834, dated September 26, 2019, decided simultaneously herewith.)

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,
Sallie Manzanet-Daniels
Cynthia S. Kern
Anil C. Singh, Justices.

-----X
Jorge Ajche,
Plaintiff-Appellant-Respondent,

-against-

M-3315
Index No. 156696/12

Park Avenue Plaza Owner, LLC, et al.,
Defendants-Respondents-Appellants,

53rd St. Food, LLC et al.,
Defendants-Respondents.

Park Avenue Plaza Owner, LLC,
Third-Party Plaintiff-Respondent-Appellant,

-against-

53rd St. Food, LLC, et al.,
Third-Party Defendants-Respondents.

53rd St. Food, LLC, et al.,
Second Third-Party
Plaintiffs-Respondents,

-against-

Cobra Kitchen Ventilation, Inc.,
Second Third-Party
Defendant-Respondent,

Park Avenue Plaza Owner, LLC,
Third Third-Party
Plaintiff-Respondent-Appellant,

-against-

Cobra Kitchen Ventilation, Inc.,
Third Third-Party
Defendant-Respondent.

-----X

Defendant-respondent-appellant CPM Builders, Inc., having moved for reargument of the decision and order of this Court, entered on April 2, 2019 (Appeal No. 8848),

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Lukasz Gottwald, previously known
as Dr. Luke, et al.,
Plaintiffs-Respondents,

-against-

Kesha Rose Sebert, previously
known as Kesha,
Defendant-Appellant.

SEALED

M-2898

Index Nos. 653118/14
162075/14

- - - - -
Lukasz Gottwald, previously known
as Dr. Luke, et al.,
Plaintiffs,

-against-

Kesha Rose Sebert previously
known as Kesha,
Defendant-Respondent.

- - - - -
Sony Music Entertainment,
Nonparty Appellant.

- - - - -
Lukasz Gottwald, previously known
as Dr. Luke, et al.,
Plaintiff-Appellant,

-against-

Mark Geragos, et al.,
Defendants-Respondents.

-----X
Defendant-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on May 2, 2019 (Appeal Nos. 9188N, 9189N, 9190N and 9191N),

(M-2898)

-2-

September 26, 2019

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
In re Meirav Gavriellov, et al.,

Petitioners-Appellants,

-against-

M-3100
Index No. 570582/17

Unger Consulting Group Ltd., et al.,

Respondents-Respondents.

-----X

Respondents-respondents tenants having moved for reargument/renewal 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 6, 2019 (Appeal No. 9547),

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,
Peter Tom
Troy K. Webber
Marcy L. Kahn
Anil C. Singh, Justices.

-----X

Curby Toussaint,
Plaintiff-Respondent-Appellant,

-against-

The Port Authority of New York and
New Jersey,
Defendant-Appellant,

M-3294
Index No. 155016/15

-and-

Granite Construction Northeast, Inc.,
Defendant-Respondent,

Skanska USA Civil Northeast, Inc.,
Skanska USA Building, Inc., and
Skanska Koch, Inc.,
Defendants.

-----X

Defendant-Appellant, The Port Authority of New York and New Jersey, 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 May 30, 2019 (Appeal No. 8206),

And plaintiff-respondent-appellant having submitted an affirmation in partial opposition to the motion,

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

It is ordered that that branch of the motion seeking reargument is denied. That branch of the motion seeking leave to appeal to the Court of Appeals is granted, and this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

Was the order of this Court, which modified, the order of the Supreme Court, to grant plaintiff summary judgment as to liability on the Labor Law § 241(6) claim insofar as it is predicated on 12 NYCRR 23-9.9(a) as against defendant Port Authority of New York and New Jersey, properly made?

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,
Peter Tom
Marcy L. Kahn
Jeffrey K. Oing
Anil C. Singh, Justices.

-----x

In the Matter of the Application of

Robert Thomas,
Petitioner,

For a Judgment under Article 78 of the
Civil Practice Law and Rules.

M-364
M-3772
O.P. No. 164/18
Ind. No. 5090/04

-against-

The Honorable Robert Mandelbaum, Supreme
Court Justice, New York County, The
Honorable Cyrus Vance, District Attorney,
New York County,

Respondents.

-----x

An Original Article 78 Proceeding having been commenced in this Court on or about October 10, 2018, seeking *inter alia*, a writ of prohibition against respondents,

And petitioner having moved for a default judgment (M-364) and for the imposition of sanctions on respondents and for other relief (M-3772),

Now, upon reading and filing the papers with respect to the motions, and the decision and order of this Court entered on January 24, 2019 (Appeal No. 8212, M-5514), denying petitioner's application and dismissing the petition,

(M-364/M-3772)

-2-

September 26, 2019

It is ordered that the motions (M-364 & M-3772) are denied in their entirety.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Rosalyn H. Richter
Peter Tom
Marcy L. Kahn
Peter H. Moulton, Justices.

-----X
Stanley Jonas and Axiom Management
Partners, LLC,
Plaintiffs-Appellants,

-against-

National Life Insurance Company, et al.,
Defendants,

Certain Underwriters at Lloyd's of London
subscribing to or otherwise liable for
Certificate Number 0721963, otherwise
known as Risks PE 08/08 and PE 0620/09,
including Syndicate 5000 and Syndicate
510,
Defendant-Respondent.

M-2443
Index No. 651733/13

-----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 April 9, 2019 (Appeal No. 8944-8945),

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Dianne T. Renwick, Justice Presiding,
Sallie Manzanet-Daniels
Peter Tom
Angela M. Mazzarelli
Troy K. Webber, Justices.

-----X

R&R Capital LLC and FTP Capital, LLC,
Plaintiffs-Respondents,

-against-

M-2830

Index No. 604080/05

Linda Merritt, also known as
Lyn Merritt,
Defendant-Appellant.

-----X

Plaintiffs-respondents having moved for dismissal of the appeal taken from a judgment of the Supreme Court, New York County, entered on or about January 28, 2019,

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

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

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Sallie Manzanet-Daniels
Marcy L. Kahn
Cynthia S. Kern
Peter H. Moulton, Justices.

-----X
Welsbach Electric Corp.,
Plaintiff-Appellant,

-against-

M-3198
Index No. 652595/17

Judlau Construction, Inc., Travelers
Casualty and Surety Company of America,
Zurich American Insurance Company and
Liberty Mutual Insurance Company,
Defendants-Respondents.
-----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 May 23, 2019 (Appeal No. 9398),

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Judith J. Gische, Justice Presiding,
Troy K. Webber
Cynthia S. Kern
Anil C. Singh, Justices.

-----x
In the Matter of

Matthew C.,
Xavier C.,
Mia L., and
Cecily J.,

CONFIDENTIAL
M-2793
Docket Nos.
NN-17182-85/15

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

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

Joshua L.,
Respondent-Appellant.

- - - - -
Larry S. Bachner, P.C., Esq., Attorney
for the Child Cecily J.

- - - - -
Jo Ann Douglas, Esq., Attorney for
the Subject Children Matthew C. and
Xavier C.

- - - - -
Aleza Ross, Esq., Attorney for
the Child Mia L.

-----x

An appeal having been taken to this Court from the order of the Family Court, Bronx County, entered on or about March 7, 2017, and said appeal having been perfected,

And an order of this Court having been entered on October 23, 2018 (M-4173), substituting Jo Ann Douglas, Esq., as counsel for the subject children, Matthew C. and Xavier C., and Aleza Ross, Esq, as counsel for the child Mila L., and adjourning the appeal to the February 2019 Term,

And an order of this Court having been entered on September 3, 2019 (M-2386), substituting Larry S. Bachner, P.C., Esq., as counsel for the child Cecily J.,

And Jo Ann Douglas, Esq., having moved to be relieved as counsel for the subject children, Matthew C. and Xavier C., in connection with 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, with leave to renew upon proof of service of the moving papers upon the subject children, Matthew C. and Xavier C., by regular mail at their last known address. Sua sponte, the appeal is adjourned to the January 2020 Term.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

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

-against-

M-3420

Ind. No. 3363/16

John Doe also known as Steven Sidberry,
Defendant-Appellant.

-----X

An order of this Court having been entered on June 6, 2019 (M-2314) granting defendant leave to prosecute, as a poor person, the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about March 26, 2019, and assigning Robert S. Dean, Esq., Center for Appellate Litigation, as counsel to prosecute the appeal; and a motion having been made to relieve such 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 the motion is granted to the extent of striking the designation of Robert S. Dean, Esq., as assigned counsel, and substituting, pursuant to Section 722 of the County Law, Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, New York 10007, Telephone No. 212-402-4100 as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the receipt of the complete record, whichever is later.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Judith J. Gische, Justice Presiding,
Marcy L. Kahn
Jeffrey K. Oing
Anil C. Singh
Peter H. Moulton, Justices.

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

Respondent,

-against-

M-3457

Ind. No. 1602/16

Gustavo Rodriguez,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about May 30, 2018, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, of the plea or trial 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.

(M-3457)

-2-

September 26, 2019

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 10005, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

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

-----X
Galsack Realty Corp.,
Petitioner-Landlord-Respondent,

-against-

F. Felipe, also known as Francisco Felipe
also known as Eduardo Felipe,
Respondent-Tenant,

M-3516
Index No. 570662/18
Civil Court Index No.
L&T 90535/13

Ana Felipe,
Respondent-Tenant-Appellant,

"John Doe" and "Jane Doe",
Respondents-Undertenants.

-----X

Respondent-tenant-appellant, Ana Felipe, having moved for leave to appeal to this Court from the decision and order of the Appellate Term, First Department, entered in the office of the Clerk of the Supreme Court, New York County, on or about June 10, 2019,

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Anthony J. Russo,
Plaintiff-Appellant

-against-

M-3511
Ind. No. 100394/18

United Federation of Teachers and
New York City Departments of Education,
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about May 3, 2019,

And plaintiff-appellant Anthony J. Russo, pro se, having moved for an order enlarging the record on appeal to include certain documents pertaining to his teachers' union affiliation,

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----x
In the Matter of the Application of

Frank Somsky
Petitioner-Respondent,

CONFIDENTIAL

M-3513
Index No. 500059/11

-and-

Linda Redlisky,
Respondent,

For the Appointment of a Guardian
of the Person and Property of

Diane Somsky,
An Allegedly Incapacitated Person,
Respondent-Appellant.

-----x

Respondent-appellant Diane Somsky, pro se, having moved for an order, pursuant to 22 NYCRR 1250.10(c), vacating the dismissal of the appeal taken from an order of the Supreme Court, New York County, entered on or about May 24, 2011, and upon vacatur, for an enlargement of time to perfect 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, with leave to renew, upon papers submitted by respondent's duly-appointed legal guardian, or a duly-appointed legal representative.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Mario Mastrandrea,
Plaintiff-Appellant,

-against-

M-3530
Index No. 153521/18

John Mezzasalma,
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for leave to prosecute, as a poor person, the appeal taken from the order of the Supreme Court, New York County, entered on or about November 30, 2018, and 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 said 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 files an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
The People of the State of New York
ex rel. Roy Taylor,
Petitioner,

-against-

Cynthia Brann, Acting Commissioner,
New York City Department of
Corrections,
Respondent(s).

M-3531
Ind. Nos. 5342/15
3065/17
Index No. 101355/17

-----X

The above-named petitioner having moved for, inter alia, a writ of habeas corpus to be issued from this Court, and to compel the Clerk of this Court to provide petitioner with a prior decision of 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 only to the extent of transferring the proceeding to and be heard before a Justice of the Supreme Court of the State of New York, New York County, 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 A.M.K.C., Rikers Island, 18-18 Hazen Street, East Elmhurst, NY 11370; the Attorney General of the State of New York, 120 Broadway, New York, New York 10271; and the District

Attorney of New York County, Cyrus R. Vance, Jr., One Hogan Place, New York, NY 10013, be deemed due and sufficient notice. The motion is otherwise denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----x
Nina Bakhtin,
Plaintiff-Appellant,

-against-

M-3536
Index No. 153006/15

Apple, Inc. doing business as Apple
Store, Fifth Avenue,
Defendant-Respondent.

-----x

An appeal having been taken to this Court from an order of the Supreme Court, New York County, entered on or about April 17, 2019,

And counsel for plaintiff-appellant, Joseph T. Mullen, Jr. & Associates, having moved for an order relieving it as counsel; and granting plaintiff forty-five (45) days from notice of entry of the order on this motion, to either (i) retain new counsel to prosecute the appeal, (ii) advise the Court that she has determined to proceed pro se, or (iii) withdraw the appeal,

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

It is ordered that the motion is granted to the extent of relieving counsel, and is otherwise denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Tracy Nelson as Administratrix of
The Estate of Arthur Anderson,
Plaintiff-Appellant,

-against-

M-3538
Index No. 310456/10

Liberty Lines Transit, Inc.,
et al.,
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for an enlargement of time to perfect the appeal taken from an amended judgment of the Supreme Court, Bronx County, entered on or about September 26, 2018,

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

It is ordered that the motion is granted to the extent of enlarging the time to perfect the appeal to the January 2020 Term.

ENTERED:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

Confidential
M-3541

Ind. No. 316/16

Shurine Byron,
Defendant-Appellant.

-----X

Defendant-appellant having moved for leave to file a late notice of appeal from a judgment of the Supreme Court, Bronx County, rendered on or about March 6, 2019, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 10005, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Arlene Kreindler and Michael
Kreindler,
Plaintiffs-Appellants,

-against-

M-3548
Index No. 153525/16

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

-and-

Cemusa NY, LLC,
Defendant.

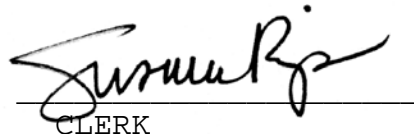
-----X

Plaintiffs-appellants having moved for an enlargement of time to perfect the appeal taken from an order of the Supreme Court, New York County, entered on or about October 1, 2018,

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

It is ordered that the motion is granted to the extent of enlarging the time to perfect the appeal to the January 2020 Term.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Franco Belli Plumbing & Heating & Sons,
Inc.,
Plaintiff-Respondent,

-against-

Citnalta Construction Corp., et al.,
Defendants-Appellants,

M-3570
Index No. 107725/11

-and-

New York City School Construction
Authority,
Defendant.

- - - - -
The Surety & Fidelity Association
of America ("SFAA"),
Amicus Curiae.

-----X
An appeal having been taken to this Court by defendants Citnalta Construction Corp., et al. from the order of the Supreme Court, New York County, entered on or about November 30, 2018, and said appeal having been perfected,

And The Surety & Fidelity Association of America ("SFAA") having moved for leave to file a brief amicus curiae in connection with 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 six copies of the proposed amicus curiae brief submitted with the moving papers are deemed filed.

ENTERED:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Julio J. Lopez,
Plaintiff-Appellant,

-against-

M-3607
Index No. 309896/12

Gregory M. Hicks, New York City Transit Authority, MTA Bus Company, The Metropolitan Transportation Authority, MTA New York City Transit, MTA New York City Bus and Manhattan and Bronx Surface Transit Operating Authority,
Defendants-Respondents,

-and-

City of New York and New York City Department of Transportation,
Defendants.

-----X

Defendants-Respondents having moved to dismiss the appeal taken from an order of the Supreme Court, Bronx County, entered on or about April 20, 2019 on the ground that no appeal lies from an order entered upon consent (CPLR 5511), or alternatively, to adjourn the perfected 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 branch of the motion seeking to dismiss the appeal is denied, without prejudice to defendants-respondents addressing the issue in their respondent's brief. The appeal is adjourned to the December 2019 Term.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X

QWIL PBC and ENTER, Inc.,
Petitioners-Respondents,

-against-

SEALED
M-3623
M-6768
Index No. 653605/19

Jonathan Landow, Paramount Medical Services, P.C., Preferred Medical, P.C., and Sovereign Medical Services, P.C.,
Respondents-Appellants.

-----X

Appeals having been taken to this Court from orders of the Supreme Court, New York County, entered on or about July 11, 2019, on or about July 22, 2019; and on or about August 2, 2019,

And respondents-appellants having moved by separate motions (M-3623 and M-6768) to stay the enforcement of the aforementioned orders and this special proceeding, pending hearing and determination of the aforesaid appeals,

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

It is ordered that the motion (M-3623) is granted to the extent of continuing the stay of arbitration granted by the order of a Justice of this Court, dated July 23, 2019, and the motion

(M-3623 and M-6768)

-2-

September 26, 2019

(M-6768) is granted to the extent of staying expedited discovery, both on the condition the appellants perfect the appeals for the January 2020 Term. The motions are otherwise denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X

The Holy Spirit Association for the Unification of World Christianity,
Plaintiff-Respondent,

M-3654
Index No. 155828/19

-against-

Mickey Barreto and Mickey Barreto
Missions,
Defendants-Appellants.

-----X

Defendant-appellant Mickey Barreto, pro se, having moved for leave to appeal, as a poor person, an order of the Supreme Court, New York County, entered on or about July 18, 2019, which "declined to sign" an order to show cause, and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, a free copy of the transcript, and for other relief,

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Columbus Manor, LLC,
Petitioner-Landlord-Appellant,

-against-

Linda Turnbull,
Respondent-Tenant-Respondent,

M-3658
Index No. 571122/18
L&T Index No. 84558/14

-and-

Brendan Rau, "John Doe" and "Jane
Doe,"
Respondents-Undertenants.

-----X

Petitioner-landlord-appellant having moved for leave to appeal to this Court from the decision and order of the Appellate Term, First Department, entered in the office of the Clerk of the Supreme Court, New York County, on or about May 6, 2019,

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

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

Marsha V.,
Petitioner-Respondent,

-against-

Garfield V.,
Respondent-Appellant.

CONFIDENTIAL

M-3674

Docket No. F-24305/17

-----X

An appeal having been taken from an order of the Family Court, Bronx County, entered on or about September 21, 2018, and respondent-appellant having moved for an enlargement of time in which to perfect said 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 January 2020 Term.

ENTERED:


CLERK

CORRECTED ORDER – October 22, 2019

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 26, 2019.

PRESENT: Hon. Angela M. Mazzairelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Natixis Funding Corp. and Nataxis M-3835
New York Branch, Index No. 650817/18
Plaintiffs-Appellants, Case No. 2019-5105

-against-

Genon Mid-Atlantic, LLC, Morgantown
OL1 LLC, et al.,
Defendants-Respondents.

-----X
Dickerson OL1, LLC, Index No. 652396/18
Plaintiff-Respondent, Case Nos. 2019-5165
-against- 2019-5478

Natixis, New York Branch,
Defendant-Appellant.

-----X
Dickerson OL2, LLC, Index No. 652399/18
Plaintiff-Respondent, Case Nos. 2019-5166
-against- 2019-5479

Natixis, New York Branch,
Defendant-Appellant.

-----X
Dickerson OL3, LLC, Index No. 652400/18
Plaintiff-Respondent, Case Nos. 2019-5167
-against- 2019-5480

Natixis, New York Branch,
Defendant-Appellant.

-----X

[Caption Continued]

-----x

Dickerson OL4, LLC,
Plaintiff-Respondent,

Index No. 652395/18
Case Nos. 2019-5161
2019-5481

-against-

Natixis, New York Branch,
Defendant-Appellant.

-----x

Separate appeals having been taken to this Court in the above captioned actions from orders of the Supreme Court, New York County, entered on or about May 31, 2019 and or about May 30, 2019, and from judgments of the same Court entered on or about July 10, 2019,

And plaintiffs-appellants Natixis Funding Corp. and Nataxis New York Branch having moved for consolidation of the aforesaid appeals,

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

It is ordered that the motion is granted. Appellants are permitted to prosecute the consolidated appeals upon an original, five hard copies and, if represented by counsel, one digital copy of one appellant's brief and one record, pursuant to 22 NYCRR 1250.9.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Lynda Teekah,
Plaintiff-Appellant,

Elizabeth Morales,
Plaintiff,

-against-

M-3855
Index No. 100101/18

America's Servicing Company and
Marix Servicing,
Defendants-Respondents,

-and-

Farrel R. Donald and Barak P.
Cardenas,
Defendants.

-----X

An appeal having been taken to this Court, by plaintiff Lynda Teekah, from an order of the Supreme Court, New York County, entered on or about July 26, 2018, and the appeal having been perfected,

And defendants-respondents America's Servicing Company and Marix Servicing, having moved for an order dismissing the appeal, pursuant to CPLR 5511,

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

(M-3855)

-2-

September 26, 2019

It is ordered that the motion is granted and the appeal is dismissed, (see, CPLR 5015[a][1]).

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-3857
Ind. No. 1428/13

Thea Gurley,
Defendant-Appellant.

-----X

An appeal having been taken to this Court from a judgment of the Supreme Court, Bronx County, rendered on or about November 16, 2015, and the appeal having been perfected,

And defendant-appellant, by assigned counsel Robert S. Dean, Esq., Center for Appellate Litigation, having moved for an order withdrawing appellant's brief, filed April 8, 2019, without prejudice, and for an enlargement of time within which to perfect the appeal, if necessary, until 180 days after the Supreme Court, Bronx County (Judith Lieb, J.) renders a decision on appellant's pending C.P.L. § 440.10 motion, or, if that motion is denied, the resolution of any motion for leave to appeal that denial to 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 is granted to the extent of withdrawing the defendant-appellant's brief, filed April 8, 2019, without prejudice, and enlarging the time to perfect the appeal to the May 2020 Term.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Manuel Castedo and M. Castedo
Architect, P.C.,
Petitioners-Appellants,

-against-

M-6834
Index No. 652177/19

The Permanent Mission of Thailand To
The United Nations and Richter &
Ratner Contracting Corp.,
Respondents-Respondents.
-----X

Petitioners-appellants having moved for a stay of arbitration pending hearing and determination of the perfected appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about June 17, 2019,

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

It is ordered that the motion is granted. (See, M-6856, dated September 26, 2019, decided simultaneously herewith.)

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
In the Matter of

Yeovanny R., and
Ashlynn R.,

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

CONFIDENTIAL
M-6852
Docket Nos. NA-42584/16
NA-42585/16

Administration for Children's Services,
Petitioner-Respondent,

-against-

Yeovanny R.,
Respondent-Appellant,

Maria R.,
Respondent-Respondent.
- - - - -

Janet E. Sabel, Esq.,
The Legal Aid Society,
Attorney for the Children.
-----X

A purported appeal having been taken to this Court from an order of the Family Court, New York County, entered on or about August 12, 2019, which declined to sign an order to show cause seeking, inter alia, a trial discharge of the children or a hearing pursuant to Section 1061 of the Family Court Act,

And respondent-appellant having moved, in the nature of CPLR 5704(a) relief, to stay the enforcement of the aforementioned order, and for an immediate trial discharge of the children, or in the alternative, for a hearing pursuant to Section 1061 of the Family Court Act, and other relief,

(M-6852)

-2-

September 26, 2019

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

It is ordered that the motion is denied.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Barbara R. Kapnick
Troy K. Webber
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
In the Matter of the Application of
Lamont Banton,
Petitioner-Appellant,

-against-

M-6854
Index No. 100187/18

Cynthia Brann, Correction Commissioner
of the New York City Department of
Correction; The New York City
Department of Correction; and The
City of New York,
Respondents-Respondents.

-----X

Petitioner-appellant having moved for an enlargement of time to perfect the appeal taken from an order of the Supreme Court, New York County, entered on or about August 24, 2018,

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

It is ordered that the motion is denied as academic, as the appeal has been accepted for filing and is perfected for the October 2019 Term.

ENTERED:


CLERK

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

BEFORE: Hon. David Friedman
Justice of the Appellate Division

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

M-3678
Ind. No. 56/11

-against-


CERTIFICATE
DENYING LEAVE

Jimmy Delgado,
Defendant.

-----X

I, David Friedman, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application made by the above-named defendant for reargument and reconsideration of this Court's order entered July 9, 2019, which denied his motion for a certificate pursuant to Criminal Procedure Law, section 460.15, and upon the record and proceedings herein, and there being no question of law or fact presented which ought to be reviewed, permission to appeal from the order of the Supreme Court, Bronx County, entered on or about March 18, 2019, is hereby denied.

Dated: New York, New York
September 12, 2019



DAVID FRIEDMAN
Justice of the Appellate Division

ENTERED
SEP 29 2019

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

BEFORE: Hon. Sallie Manzanet-Daniels
Justice of the Appellate Division
-----X

The People of the State of New York,

M-3581
Ind. No. 5018/16


-against-

ORDER DENYING
LEAVE UPON
REARGUMENT

Phillip Peyton,

Defendant.
-----X

I, Sallie Manzanet-Daniels, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application made by the above-named defendant for reargument of an order of a Justice of this Court (M-6469), entered on March 28th, 2019, which denied his motion for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 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 September 20, 2018, is hereby denied.


Associate Justice

Dated: September 9, 2019
New York, New York

ENTERED: **SEP 26 2019**

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

BEFORE: Hon. Judith J. Gische
Justice of the Appellate Division

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

M-3121
Ind. No. 3891/2011

-against-

CERTIFICATE
DENYING LEAVE

Calvin Reed,

Defendant.
-----X

I, Hon. Judith J. Gische, 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, (Laura A. Ward, J.) entered on or about May 15, 2019, is hereby denied.



Associate Justice

Dated: August 12, 2019
New York, New York

ENTERED:

SEP 26 2019

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 26, 2019.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Rosalyn H. Richter
Peter Tom
Marcy L. Kahn
Peter H. Moulton, Justices.

-----X
LDIR, LLC, etc., et al., M-2734
Plaintiffs, M-2831
M-2973
Ace Securities Corp., etc., M-2975
Plaintiff-Appellant,
Action No. 1
-against- Index No. 650949/13

DB Structured Products, Inc.,
Defendant-Respondent,

HSBC Bank USA, National Association,
as Trustee,
Defendant,

ACE Securites Corp. Home Equity Loan
Trust, Series 2007-ASAP1,
Nominal Defendant,

- - - - -
Freedom Trust, etc.
Plaintiff,

Ace Securities Corp., etc.,
Plaintiff-Appellant, Action No. 2
-against- Index No. 652985/12

DB Structured Products, Inc.,
Defendant-Respondent,

HSBC Bank USA, etc.,
Nominal Defendant.

-----X
Defendant-respondent in both actions having moved (M-2734 & M-2831) for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on April 25, 2019 (Appeal Nos. 8522-8523),

September 26, 2019

And the plaintiff-appellant in both actions having cross moved (M-2973 & M-2975) for leave to appeal to the Court of Appeals, from the aforesaid decision and order of this Court, entered on April 25, 2019 (Appeal Nos. 8522-8523),

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 and cross motions are denied.

All concur except Tom, J., who dissents as follows:

Tom, J. (dissenting)

I would grant the parties' motions for leave to appeal to the Court of Appeals.

ENTERED:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on September 26, 2019.

PRESENT: Hon. Judith J. Gische, Justice Presiding,
Marcy L. Kahn
Ellen Gesmer
Anil C. Singh
Peter H. Moulton, Justices.

-----X
Batbrothers LLC,

Plaintiff-Respondent,

-against-

Sergey Victorovich Paushok,

Defendant-Appellant.
-----X

M-3510

M-3494

Index No. 150122/15

Defendant-appellant having moved, by separate motions, 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 May 16, 2019 (Appeal Nos. 9327-9328)(Case Nos. 2018-3019, 2018-5938)(Docs. #11, #14),

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

It is ordered that the motions are denied.

ENTERED:


CLERK