

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Peter Tom  
Ellen Gesmer  
Anil C. Singh, Justices.

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

Respondent,

-against-

Charles McN.,

Defendant-Appellant.  
-----X

**CONFIDENTIAL**

M-4572

Ind. No. 5062/16

Counsel for defendant-appellant having moved for an order dismissing defendant's appeal taken from a judgment of the Supreme Court, New York County, rendered on or about June 27, 2017, without prejudice to reinstatement at such time appellant becomes amenable to the jurisdiction 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It is ordered that the motion is granted to the extent of deeming the appeal withdrawn.

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 October 25, 2018.

Present - Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
Troy K. Webber  
Peter H. Moulton, Justices.

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

-against-

M-4915  
Ind. No. 3181/15

West Spruill,  
Defendant-Appellant.

-----X

An order of this Court having been entered on October 25, 2018 (M-4416), inter alia, granting defendant-appellant's motion for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about July 7, 2017, under Indictment No. 3181/15, and assigning counsel therefor,

And defendant-appellant having moved for leave to prosecute, as a poor person, the appeal from the aforesaid judgment of the Supreme Court, Bronx County, (M-4915),

And counsel for defendant-appellant having submitted correspondence, dated October 11, 2018, seeking to withdraw the instant motion (M-4915) as redundant,

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

It is ordered that the instant motion (M-4915) is withdrawn in accordance with the correspondence dated October 1, 2018.

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 October 25, 2018.

Present - Hon. Peter Tom, Justice Presiding,  
Troy K. Webber  
Jeffrey K. Oing  
Peter H. Moulton, Justices.

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

Respondent,

-against-

M-4247  
Ind. No. 2627/09

Ramon Lara,

Defendant-Appellant.

-----X

Defendant-appellant having moved for reargument of the decision and order of this Court, entered on August 16, 2018 (Appeal Nos. 6063-6064),

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 August 16, 2018 (Appeal Nos. 6063-6064) is recalled and vacated and a new decision and order substituted therefor. (See Appeal Nos. 6063-6064, 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 October 25, 2018.

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

-----X  
Hazel Williams,  
Plaintiff-Respondent,

-against-

M-4319X  
Index No. 109632/11

New York City Transit Authority,  
Defendant-Appellant.

-----X

An appeal having been taken from orders of the Supreme Court, New York County, entered on or about October 27, 2017 and February 1, 2018,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 14, 2018, 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 October 25, 2018.

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 for  
the Construction and Reformation of  
The Carcanagues Living Trust under  
Agreement dated June 6, 1997 created  
by Jacques Carcanagues, as Grantor and  
Trustee, and now,

**M-4569**  
Index No. 3399/14

Deceased,  
-----

Sergio Francescon and David Glassman,  
as Trustees of the Carcanagues  
Living Trust,

Petitioners-Appellants.  
-----X

An appeal having been taken from an order of the Surrogate's Court, New York County, entered on or about August 17, 2017,

Now, upon reading and filing the correspondence of counsel for petitioners-appellants, dated August 27, 2018, 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 October 25, 2018.

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

-----X

In Re Probate Proceeding. Will of  
Marie Pepe,  
Deceased.

Surrogate's Court  
M-4576X  
File No. 2016-2139

-----X

An appeal having been taken from an order of the Surrogate's Court, Bronx County, entered on or about March 1, 2018,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 12, 2018, 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 October 25, 2018.

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

-----X  
Juli Alvarez, et al.,

Plaintiffs-Respondents,

-against-

M-4584  
Index No. 155275/16

EQR-71 Broadway A, L.L.C.,

Defendant-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 26, 2017,

Now, upon reading and filing the stipulation of the parties hereto, dated September 11, 2018, 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 October 25, 2018.

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

-----X  
VNB New York, LLC,

Plaintiff-Appellant,

-against-

M-4593  
Index No. 652149/17

Charles Paskesz, et al.,

Defendants-Respondents.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about February 7, 2018,

Now, after reading and filing the correspondence by counsel for plaintiff-appellant, dated September 14, 2018, 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 October 25, 2018.

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

-----x  
Freedom Specialty Insurance Company,  
Plaintiff-Appellant,

-and-

Atlantic Specialty Insurance Company, M-4600  
et al., Index No. 652505/17  
Plaintiffs,

-against-

Platinum Management (NY), LLC, et al.,  
Defendants-Respondents.

-----x  
Plaintiff-appellant having moved to withdraw its appeal taken from the order of the Supreme Court, New York County, entered on or about December 27, 2017,

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

It is ordered that the motion is granted and the appeal is deemed withdrawn.

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 October 25, 2018.

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.

- - - - -  
Xavier C.,  
Petitioner-Respondent,

**CONFIDENTIAL**  
M-4879  
Docket No. V-9489-14/16C

-against-

Armetha K.,  
Respondent-Appellant.

- - - - -  
Eva D. Stein, Esq.,  
The Children's Law Center,  
Attorney for the Child,

-----X  
Petitioner-respondent father, Xavier C., having moved for leave to respond, as a poor person, to the appeal from two orders of the Family Court, New York County, both entered on or about February 1, 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 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, Steven P. Forbes, Esq., 155-03 Jamaica Avenue, Jamaica, New York, 11432, Telephone No. 718-791-8444, 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.

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 October 25, 2018.

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-

Oscar Sanders,

Defendant-Appellant.  
-----X

**M-4363**  
Ind. Nos. 2762/16  
4126/16

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 11, 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, 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.

Justine M. Luongo, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 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 October 25, 2018.

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-4365**

Ind. Nos. 841/17  
1803/17

Luis Sierra,  
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 January 3, 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.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28<sup>th</sup> 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 filing 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 October 25, 2018.

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-4366  
Ind. No. 1878/16

John Arias,  
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 December 8, 2017, 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 October 25, 2018.

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-4372**

Ind. Nos. 2127/17  
3708/17

Hunter Waring,  
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 February 1, 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.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28<sup>th</sup> 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 filing 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 October 25, 2018.

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-4373**

Ind. No. 971/15

Henry Otero,  
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 October 14, 2016, 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 October 25, 2018.

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-4374**

Ind. No. 3557/16

Ricardo Velez,  
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 February 6, 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.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28<sup>th</sup> 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 filing 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 October 25, 2018.

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

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

-against-

**M-4416**  
Ind. No. 3181/15

West Spruill,  
                  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 July 7, 2017, 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.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2018.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,  
David Friedman  
Barbara R. Kapnick  
Troy K. Webber  
Peter H. Moulton, Justices.

-----X  
Steven Kind and Deana Kind,  
individually and as husband and wife,  
Plaintiffs-Appellants,

-against-

M-4085  
Index No. 151273/13

1177 Avenue of the Americas  
Acquisitions, LLC, et al.,  
Defendants-Respondents.

-----X

Plaintiffs-appellants having moved for a stay of trial pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about September 20, 2017,

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 Clerk is directed to maintain the appeal on the calendar for the November 2018 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 October 25, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,  
David Friedman,  
Barbara R. Kapnick  
Troy K. Webber  
Peter H. Moulton, Justices.

-----x  
Landmark Ventures, Inc. and  
Landmark Ventures (USA), Inc.,  
Plaintiffs-Appellants,

M-4966

-against-

Index No. 653761/16

Insightec Ltd. and  
Kreisberg & Maitland LLP,  
Defendants-Respondents,  
-----x

Appeals having been taken to this Court by plaintiffs-appellants from orders of the Supreme Court, New York County, entered on or about April 4, 2017, and said appeals having been perfected (Cal. Nos. 2018-989 and 2018-1036),

And defendant-respondent Kreisberg & Maitland LLP having moved for an order:

(1) sealing the proceedings before this Court, including NYSCEF filings, and upon sealing these proceedings, permitting the parties to e-file documents in unredacted form and otherwise share relevant documents with counsel of record;

(2) directing plaintiffs-appellants to supplement the record on appeal to include the exhibits that accompanied defendant-respondent movant's motion to dismiss the complaint herein;

(3) permitting defendant-respondent to supplement the record to include the order of the Supreme Court, New York County, entered on June 6, 2018, dismissing a subsequent complaint filed by plaintiffs-appellants in a related action (*Landmark Ventures, Inc. et al. v . Kreisberg & Maitland LLP, et al.*, Index No. 655089/17), and

(4) joining this appeal with plaintiffs-appellants' appeal of the dismissal order in the related action (Cal. No. 2018-2985),

Now, upon reading and filing the papers with respect to the motion, including the stipulation of the parties dated October 12, 2018, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent that (i) the record on appeal, briefs and all future filings are sealed. The parties' attention is directed to Section 1245.8 of the Practice Rules of the Appellate Division with respect to the filing of sealed documents; and (ii) plaintiffs-appellants are directed to supplement the record to include the exhibits attached to the moving papers as Ex. 1, and

It is further ordered that the perfected appeals taken by plaintiffs-appellants in this action (Cal. Nos. 2018-989 and 2018-1036) are adjourned to the April 2019 Term. The time to perfect the appeal in the related action (Cal. No. 2018-2985) is enlarged to the April 2019 Term. The Clerk of the Court is directed to calendar all three appeals to be heard together on the same date for the April 2019 Term, if the appeal in the related action is perfected. Defendant-respondent movant's request to supplement the record herein to include the dismissal order in the related action 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 October 25, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,  
John W. Sweeny, Jr.  
Barbara R. Kapnick  
Troy K. Webber  
Jeffrey K. Oing, Justices.

-----x

Donnell Baines,  
Plaintiff-Appellant,

-against-

M-4471

Index No. 401845/13

The Daily News, L.P., et al.,  
Defendants-Respondents.

-----x

An appeal having been taken to this Court by plaintiff-appellant from an order of the Supreme Court, New York County, entered on or about March 29, 2018,

And an order of this Court having been entered on July 26, 2018 (M-2705), denying plaintiff-appellant's motion for permission to perfect the appeal using the appendix method, for leave to prosecute the appeal as a poor person, including the assignment of counsel, and for related relief,

And plaintiff-appellant having renewed the aforesaid motion,

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

It is ordered that the motion is denied.

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 October 25, 2018.

Present - Hon. Rolando T. Acosta,	Presiding Justice,
John W. Sweeny, Jr.	
Marcy L. Kahn	
Jeffrey K. Oing,	Justices.

-----X  
Yvette Acevedo, etc.,

Plaintiff-Appellant,

-against-

**M-3736**

Index Nos. 109659/10  
590931/10

Episcopal Social Services of New York,  
Inc., et al.,  
Defendants-Respondents.

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

-----X  
Plaintiff-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on June 28, 2018 (Appeal Nos. 7001, 7002, 7003, 7004),

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 October 25, 2018.

Present - Hon. David Friedman, Justice Presiding,  
John W. Sweeny Jr.  
Barbara R. Kapnick  
Ellen Gesmer  
Anil C. Singh, Justices.

-----X  
Reliance Ambulette, Inc.,

Petitioner-Appellant,

-against-

**M-4312**

Index No. 160717/16

Dennis Rosen as Medicaid Inspector General of the State of New York, The State of New York Office of The Medicaid Inspector General, The New York State Department of Health, and Denise Lepicier as The Administrative Law Judge,

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 14, 2017,

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 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 October 25, 2018.

Present - Hon. David Friedman, Justice Presiding,  
Judith J. Gische  
Barbara R. Kapnick  
Marcy L. Kahn, Justices.

-----X  
Arkin Kaplan Rice LLP., Stanley S. Arkin  
and Lisa C. Solbakken,

Plaintiffs-Appellants,

-against-

Howard Kaplan, Michelle Rice and  
Kaplan Rice LLP.,

Defendants-Respondents,

Arkin Kaplan Rice, LLP., a dissolved firm,

Nominal Defendant.

-----X

Plaintiffs 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 December 27, 2017,

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 May 2019 Term.

ENTERED:

  
CLERK

CORRECTED ORDER - October 26, 2018

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2018.

Present = Hon. John W. Sweeny, Jr.,           Justice Presiding,  
          Judith J. Gische  
          Angela M. Mazzarelli  
          Troy K. Webber  
          Marcy L. Kahn,                   Justices.

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

-against-

**M-4583**  
Ind. No. 5395/13

Michael Simmons,  
Defendant-Appellant.

-----X

Defendant-appellant having moved for an enlargement of time to perfect the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about February 4, 2015, and to continue the bail relief granted by an order of a Justice of this Court, entered on March 3, 2015 (M-902), and continued by an order of this Court, entered on June 22, 2018 (M-3157),

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 **February** 2019 Term, continuing the previous bail relief on all the original conditions set forth in the order entered March 3, 2015 (M-902), and on the further condition that the appeal is perfected on or before **December 3, 2018** for the **February** 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 October 25, 2018.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,  
Peter Tom  
Ellen Gesmer  
Cynthia S. Kern  
Peter H. Moulton, Justices.

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

Respondent,

-against-

**M-4282**  
Ind. No. 898/12

Manuel Castellanos,

Defendant-Appellant.  
-----X

Respondent having moved for dismissal of the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about April 2, 2013,

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

It is ordered that the motion is denied without prejudice to respondent raising its arguments on the direct appeal.

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 October 25, 2018.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,  
Peter Tom  
Ellen Gesmer  
Cynthia S. Kern  
Peter H. Moulton, Justices.

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

-against- Ind. Nos. 3091/14  
M-4284  
578/14

Cesar Pimentel,  
Defendant-Appellant.

-----X

An order of this Court having been entered on August 9, 2018 (M-2921) granting defendant leave to prosecute, as a poor person, the appeal taken from the judgments of the Supreme Court, New York County, rendered on or about January 29, 2015, and assigning Justine M. Luongo, Esq., 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 Justine M. Luongo, Esq., as assigned counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28<sup>th</sup> Floor, New York, New York 10005, Telephone No. 212-577-2523 as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 180 days from the date of this order or 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 October 25, 2018.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,  
Peter Tom  
Ellen Gesmer  
Cynthia S. Kern  
Peter H. Moulton, Justices.

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

Respondent,

-against-

**M-4418**

Ind. No. 3381/14

Melissa Bishop,

Defendant-Appellant.  
-----X

The Legal Aid Society, counsel for defendant-appellant, having moved for an order dismissing defendant's perfected appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about September 22, 2016, as moot,

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

It is ordered that the motion is granted to the extent of deeming the appeal withdrawn.

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 October 25, 2018.

Present - Hon. John W. Sweeny Jr., Justice Presiding,  
Peter Tom  
Ellen Gesmer  
Cynthia S. Kern  
Peter H. Moulton, Justices.

-----X  
Commerce and Industry Insurance  
Company,  
Plaintiff-Appellant,

**M-4428**  
Index No. 150620/15

-against-

Delta Environmental, Inc., et al.,  
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for an enlargement of time to perfect the appeal taken from a judgment of the Supreme Court, New York County, entered on or about July 26, 2016,

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 May 2019 Term, with leave to seek further enlargements, if so advised.

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 October 25, 2018.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,  
Peter Tom  
Ellen Gesmer  
Cynthia S. Kern  
Peter H. Moulton, Justices.

-----X  
1591 Second Avenue LLC, 1593 Second Avenue LLC, 1595-1597 Second Avenue LLC, 246 East 83 Street LLC and 248 East 83 Street LLC,

Plaintiffs-Respondents,

-against-

**M-4429**  
Index No. 161539/15

Metropolitan Transportation Authority  
and MTA Capital Construction Company,

Defendants-Appellants.  
-----X

Defendants-appellants having moved for enlargement of time to perfect the appeal taken from the order of the Supreme Court, New York County, entered on or about August 28, 2017,

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 February 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 October 25, 2018.

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

-----x  
Marie Holdings, Inc.,

Plaintiff-Respondent,

-against-

M-3696  
Index No. 810052/11

Biclyn Corp., et al.,

Defendants-Appellants.  
-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about May 30, 2018, which conditioned the stay of a certain foreclosure sale on defendants posting an undertaking in the amount of \$500,000,

And defendants-appellants having moved to cancel a scheduled foreclosure sale, and to stay all proceedings pending the determination of their appeal from the aforesaid order, without the requirement that they post an understanding,

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. The interim relief granted by the order of a Justice of this Court, dated July 26, 2018, is vacated.

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 October 25, 2018.

Present - Hon. John W. Sweeny Jr.,                   Justice Presiding,  
                  Troy K. Webber  
                  Cynthia S. Kern  
                  Jeffrey K. Oing,                               Justices.

-----X  
IHG Management (Maryland) LLC,  
Plaintiff-Respondent,

-against-

**M-3774**  
Index No. 655914/17

West 44th Street Hotel LLC,  
Defendant-Appellant,

Tishman Asset Corporation,  
Defendant.

-----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 July 3, 2018 (Appeal Nos. 7043, 7044, 7045),

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 October 25, 2018.

Present - Hon. John W. Sweeny, Jr.,                   Justice Presiding,  
                  Troy K. Webber  
                  Cynthia S. Kern  
                  Jeffrey K. Oing,                               Justices.

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

Respondent,

-against-

**M-4423**  
Ind. No. 2020/16

Lee Almonte,

Defendant-Appellant.

-----X

The People having moved for reargument of the decision and order of this Court, entered on August 9, 2018 (M-2735), which denied their motion to dismiss the appeal, and 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 for reargument is granted and, upon reargument, the People's motion to dismiss the appeal is denied without prejudice to the People raising their arguments in their respondent's brief on appeal.

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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Rosalyn H. Richter  
Troy K. Webber  
Cynthia S. Kern  
Peter H. Moulton, Justices.

-----X  
Level 3 Communications, LLC (now  
known as Centurylink), et al.,

Plaintiffs-Appellants,

-against-

M-3506  
Index No. 156255/16

Jacques Jiha, et al.,

Defendants-Respondents.  
-----X

Plaintiff-appellant, Level 3 Communications, LLC (now known as Centurylink), 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 7, 2018 (Appeal Nos. 6825-6826),

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 October 25, 2018.

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

-----X  
Renata Sklarova,  
Plaintiff-Respondent-Appellant,

-against-

**M-4292**  
Index No. 805212/14

Allen Coopersmith, M.D., and NYU Langone  
Medical Center,  
Defendants-Appellants-Respondents,

Andrew Feldman, M.D., University Place  
Orthopedics, Lisa Mouzi, M.D. and  
Catherine Laible, M.D.,  
Defendants-Respondents.

-----X

Plaintiff-respondent-appellant having moved for an order enlarging the time in which to perfect a cross appeal from an order of the Supreme Court, New York County, entered on or about September 27, 2017, to consolidate such appeal with the appeal from the order of the Supreme Court, New York County, entered on or about May 25, 2018, and for the appeals to be heard on the same calendar day, respectively,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the March 2019 Term, and directing the Clerk of the Court to calendar said appeals on the same calendar date.

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 October 25, 2018.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,  
Sallie Manzanet-Daniels  
Angela M. Mazzarelli  
Troy K. Webber  
Anil C. Singh, Justices.

-----X  
Alexandra K.,

Plaintiff-Appellant,

-against-

**CONFIDENTIAL**

**M-3796**

Index No. 305550/14

Paul K.,  
Defendant-Respondent.

-----X

Appeals having been taken from (5) orders of the Supreme Court, New York County, entered on or about December 30, 2015, March 23, 2017 and April 5, 2017 (2 orders) and October 12, 2017; said appeals having been consolidated by an order of this Court, entered on December 14, 2017 (M-5445),

And plaintiff-appellant having moved for a stay of enforcement of the interim order of the Supreme Court, New York County, entered on July 18, 2018, pending its appeal and determination of the previously consolidated appeals noticed for the September 2018 term,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated September 12, 2018, and due deliberation having been had thereon,

It is ordered that the aforesaid appeals are deemed withdrawn pursuant to the parties' stipulation. The motion is denied as academic.

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 October 25, 2018.

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

-----x  
New York Helicopter Charter, Inc.,  
Plaintiff-Respondent,

-against-

Peter Borneman, etc., et al.,  
Defendants,

M-4124  
Index No. 152189/14

-and-

Keystone Turbine Services, LLC,  
Defendant-Appellant.

-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about January 18, 2018, and said appeal having been perfected,

And defendant-appellant having moved for a stay of all proceedings, including discovery, pending hearing and determination of the aforesaid appeal,

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

It is ordered that the motion is granted, and the Clerk is directed to maintain the appeal on the November 2018 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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Judith J. Gische  
Angela M. Mazzarelli  
Cynthia S. Kern  
Peter H. Moulton, Justices.

-----X  
Kelvin Rodriguez, as Administrator  
of the Estate of Fiordaliza Pichardo,  
Deceased, and Fiordaliza Pichardo,  
Individually,

Plaintiff-Respondent-Appellant,

-against-

Elsa M. Then,  
Defendant,

Bronx Lebanon Hospital Center, Sahitya  
Mallipeddi, M.D., Isaac Dapkins, M.D.  
and Jessica Fleisher-Black, M.D.,  
Defendants-Appellants-Respondents,

Jane Doe Nurses, et al.,  
Defendants.

**M-4079**  
**M-4375**  
Index No. 21033/11

-----X

An appeal and a cross appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about November 18, 2016,

And plaintiff-respondent-appellant having moved for a further enlargement of time to perfect their cross-appeal (M-4375),

And defendants-appellants-respondents having moved for a further enlargement of time to perfect their appeal (M-4079),

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



(M-4079/M-4375)

-2-

October 25, 2018

It is ordered that the time to perfect the appeal and cross appeal is enlarged to the March 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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Judith J. Gische  
Angela M. Mazzarelli  
Cynthia S. Kern  
Peter H. Moulton, Justices.

-----x

Billy Chicago Limited,  
Plaintiff-Respondent,

-against-

M-4105

Index No. 650234/14

Chicago China Tour, LLC, et al.,  
Defendants-Appellants.

- - - - -

Chicago China Tour, LLC,  
Third-Party Plaintiff-Appellant,

-against-

Index No. 595171/16

National Artists Management Company,  
Inc., et al.,  
Third-Party Defendants.

- - - - -

[And another action]

-----x

An appeal having been taken to this Court from the judgment of the Supreme Court, New York County, entered on or about June 29, 2018,

And defendant/third-Party plaintiff-appellant Chicago China Tour LLC having moved for a stay of trial on damages pending hearing and determination of the appeal,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from counsel for defendants/third-party plaintiff dated September 12, 2018, 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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Judith J. Gische  
Angela M. Mazzarelli  
Cynthia S. Kern  
Peter H. Moulton, Justices.

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

-against-

Ramon Reyes,

**M-4125**  
Ind. Nos. 2016/16  
119/16

Defendant-Appellant.  
-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal and 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 September 5, 2017, 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 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.

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 October 25, 2018.

Present: Hon. Dianne T. Renwick, Justice Presiding,  
Judith J. Gische  
Angela M. Mazzarelli  
Cynthia S. Kern  
Peter H. Moulton, Justices.

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

-against- Ind. Nos. 2139/14  
M-4157  
50/14  
12/15  
Taylonn Murphy,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about June 24, 2016, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew, upon defendant's submission of a detailed notarized affidavit, in compliance with CPLR 1101(a) and 22 NYCRR 1250.4(d)(1) and (4), setting forth his indigency, the terms of defendant's retainer agreement with trial counsel, Patrick Brackley, Esq., the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal.

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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Judith J. Gische  
Angela M. Mazzarelli  
Cynthia S. Kern  
Peter H. Moulton, Justices.

-----X  
In the Matter of

Jayden J.,

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

**CONFIDENTIAL**

**M-4253**

Docket No. B-44347/15

- - - - -  
The New York Foundling Hospital,  
Petitioners-Respondents,

Florence J.,  
Respondent-Appellant.

- - - - -  
Kenneth Walsh, Esq.,  
Attorney for the Child.

-----X

An appeal having been taken from an order of the Family Court, New York County, entered on or about February 22, 2018,

And respondent-appellant having moved for an order compelling the Clerk of the Family Court, New York County to produce (1) all judges' notes, notations on Form F/99, notations on any substitute for Form F/99, and file jackets, for Docket No. B44347/15 for the period of October 10, 2015 through February 22, 2018, and (2) all judges' notes, notations on Form F/99, notations on any substitute for Form F/99, and file jackets, under File No.38673 for docket numbers other than B44347/15, for the same period, if they contain notations as to the proceedings held simultaneously with B44347/15,

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



It is ordered that the motion is granted to the extent of directing the Clerk of the Family Court, New York County to produce (1) all judges' notes, notations on Form F/99, notations on any substitute for Form F/99, and file jackets, for Docket No. B44347/15 for the period of October 10, 2015 through February 22, 2018, and (2) all judges' notes, notations on Form F/99, notations, or any substitute for Form F/99, and file jackets, under File No.38673 for docket numbers other than B44347/15, for the same period.

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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Judith J. Gische  
Angela M. Mazzarelli  
Cynthia S. Kern  
Peter H. Moulton, Justices.

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

**CONFIDENTIAL**

**M-4254**

Jamiyla J.,  
Petitioner-Appellant,

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

-against-

Kenneth D.,  
Respondent-Respondent.

-----  
Elisa Barnes, Esq.,  
Attorney for the Child.

-----X

Petitioner-appellant, in connection with the appeal taken from an order of the Family Court, New York County, entered on or about January 23, 2018, having moved for an order compelling the Clerk of the Family Court, New York County to produce (1) all judge's notes, notations on Form F/99, notations or any substitute for Form F/99, and file jackets, for Docket Nos. V21629-12/16 and V27419-12/16 for the period of November 15, 2016 through January 26, 2018, and (2) all judges' notes, notations on Form F/99, notations on any substitute for Form F/99, and file jackets, under File Nos. 115, 452 for docket numbers other than V21629-12/16A or V27419-12/16A, for the same period, if they contain notations as to the proceedings held simultaneously with V21629-12/16A or V27419-12/16A,

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

It is ordered that the motion is granted to the extent of directing the Clerk of the Family Court, New York County to produce (1) all judge's notes, notations on Form F/99, notations on any substitute for Form F/99, and file jackets, for Docket Nos. V21629-12/16A, V27419-12/16A for the period of November 15, 2016 through January 26, 2018, and (2) all judges' notes, notations on Form F/99, notations on any substitute for Form F/99, and file jackets, under File Nos. 115, 452 for docket numbers other than V21629-12/16A or V27419-12/16A, for the same period.

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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Judith J. Gische  
Marcy L. Kahn  
Cynthia S. Kern  
Peter H. Moulton, Justices.

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

-against-

**M-4182**  
Ind. No. 2605N/09

Done Aquavivas Cruz, a/k/a  
Cruz D. Aguavivas,  
  
Defendant-Appellant.

-----X

The People having moved for dismissal of the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about July 23, 2010, for failure to timely perfect,

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

It is ordered that the motion is denied.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Judith J. Gische  
Marcy L. Kahn  
Cynthia S. Kern  
Peter H. Moulton, Justices.

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

Respondent,

-against-

**M-4313**

Ind. No. 2634/16

Omar F. Ogando,

Defendant-Appellant.  
-----X

Defendant having moved, pro se, for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, Bronx County, rendered on or about June 19, 2017,

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.

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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Peter Tom  
Angela M. Mazzarelli  
Troy K. Webber  
Cynthia S. Kern, Justices.

-----x  
Brenda Torres, as Administratrix for  
the Estate of Robert Torres (Deceased),  
and Brenda Torres, Individually,  
Plaintiffs-Respondents,

-against-

M-4952  
Index No. 162256/14

The City of New York, The New York City  
Police Department and The New York City  
Department of Parks and Recreation,  
Defendants-Appellants.

-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about March 5, 2018, and said appeal having been perfected,

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

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

It is ordered that the motion is granted, and the Clerk is directed to maintain the appeal on the December 2018 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 October 25, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,  
Peter Tom  
Ellen Gesmer  
Anil C. Singh, Justices.

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

-against-

Sergio Arechiga,  
Defendant-Appellant.

**M-3409**  
**M-3716**  
Ind. No. 2131/08

-----X

Defendant having moved, pro se, 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 September 11, 2009 (M-3409), for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

And the People having cross-moved for dismissal of said appeal for failure to prosecute (M-3716),

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

It is ordered that defendant's motion (M-3409) is granted to the extent of assigning Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28<sup>th</sup> Floor, New York, New York 10005, Telephone No. 212-577-2523, as counsel for defendant-appellant, for the purpose of addressing the People's motion to dismiss the appeal (M-3716), and is otherwise denied, and

It is further ordered that the cross-motion (M-3716) is denied, with leave to renew, upon service of the motion papers on defense counsel, assigned pursuant to this order.

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-4490  
Ind. No. 3589/09

-against-

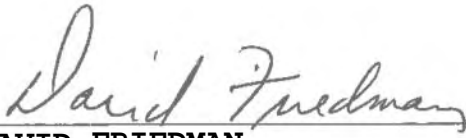
CERTIFICATE  
DENYING LEAVE

Melvin Porter,  
Defendant.

-----X

I, DAVID FRIEDMAN, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, section 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the Order of the Supreme Court, New York County, entered on or about August 2, 2017, is hereby denied.

Dated: New York, New York  
October 15, 2018

  
\_\_\_\_\_  
DAVID FRIEDMAN  
Justice of the Appellate Division

**Entered** OCT 25 2018