

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 December 15, 2009.

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

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

-against-

M-5388  
Ind. No. 3948/06

Tareyton Williams,  
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about April 25, 2007,

Now, upon reading and filing the stipulation of the parties hereto, dated November 16, 2009, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of

Jayvon Nathaniel L.,

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

M-5157  
Docket No. B2542/04

-----  
Leake and Watts Services, Inc., et al.,  
Petitioners-Respondents,

Natahsha A.,  
Respondent-Appellant.

-----  
Ronald G. Fischer, Esq.,  
Law Guardian for the Child.

-----X  
An appeal having been taken from the order of the Family Court, Bronx County, entered on or about July 17, 2008,

And petitioners-respondents having moved to dismiss 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 unless the appeal is perfected on or before February 1, 2010 for the April 2010 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided that respondent(s) serve a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:

*David Apolony*  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

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

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

-against-

M-5006  
Ind. No. 4478/08

Modibo Boubia, also known as  
Modibo Doumbia,  
Defendant-Appellant.

-----x

An order of this Court having been entered on October 27, 2009 (M-4492) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about July 16, 2009, and assigning Richard M. Greenberg, Esq., as counsel to prosecute the appeal; and a motion having been made to relieve such counsel, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for other relief,

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

It is ordered that the motion is granted to the extent of relieving assigned counsel, Richard M. Greenberg, Esq., the poor person relief previously afforded defendant-appellant is continued and the Clerk of the Supreme Court is directed to furnish a copy of the transcripts to defendant-appellant's counsel, Brian A., Kaplan, Esq., Goldberg & Kaplan, LLP, 11 Park Place, Suite 903, New York, New York 10007, Telephone No. 212-269-2363.

ENTER:

  
DEPUTY Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

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

Respondent,

-against-

M-5065  
Ind. No. 56/08

Mahamadu Conteh,

Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about December 11, 2008, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, Olukayode Babalola, 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. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
DEPUTY Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

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

Respondent,

-against-

M-5086  
Ind. No. 4000/08

Maurice Parks,

Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about June 23, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101, setting forth the amount and sources of monies to pay the fee of trial counsel, Anthony L. Ricco, Esq., and to post the \$25,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
Clerk.  
DEPUTY

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 December 15, 2009.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

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

Respondent,

-against-

M-5082

Ind. No. 4968/08

Abdul-Malik Muhammad,

Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about October 6, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, Damian Brown, 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. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
DEPUTY Clerk:

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

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

-against-

M-5092  
Ind. No. 2636/05

Karisa Taylor,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about October 2, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101, setting forth the amount and sources of monies to pay the fee of trial counsel, Theodore M. Herlich, Esq., and to post the \$5,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
DEPUTY Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

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

Respondent,

-against-

M-5094  
Ind. No. 4242/98

Roger M. Thomas, also known as Roger  
Moore Thomas,

Defendant-Appellant.  
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about October 2, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, in compliance with CPLR 1101, setting forth the terms of defendant's retainer agreement with trial counsel, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
Clerk,  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of the Application for  
the Custody and Guardianship of

The M. Children,

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

-----  
Talbot Perkins Agency,  
Petitioner-Respondent,

Barbara E. M.,  
Respondent-Appellant.

M-5144  
Docket No(s). B-6269/97  
B-6270/97  
B-6271/97  
B-16302/98  
B-16303/98  
B-5221/00

-----  
Steven Banks, Esq.,  
Law Guardian for the Children.  
-----X

Appeals having been taken to this Court by appellant from orders of the Family Court, Bronx County, entered on or about November 17, 1997, November 20, 1997 and January 30, 1998, respectively,

And appellant having moved for leave to prosecute said appeals as a poor person, for the assignment of 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 denied.

ENTER:

  
Clerk  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
In the Matter of a Paternity Proceeding  
Under Article 5 of the Family Court Act  
of the State of New York.

- - - - -  
The Commissioner of Social Services,  
on behalf of Bernadette C.,

M-4405  
Docket No. P-17665/07

Petitioner,  
  
-against-

Deon R.,

Respondent.

-----X

Respondent having moved for leave to appeal to this Court from the order of the Family Court, New York County, entered on or about April 28, 2009, and for related relief,

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

It is ordered that the motion is denied.

ENTER:

*David Apobony*  
DEPUTY Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

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

-----X  
Abetta Boiler & Welding Service, Inc.,  
Plaintiff-Respondent-Respondent,

-against-

M-4686

M-4852

American International Specialty Lines  
Insurance Company, et al.,  
Defendants,

Index No. 600660/06

The Amerisc Corp. Insurance and  
Financial Services,  
Defendant-Respondent-Appellant,

Program Brokerage Corp.,  
Defendant-Appellant-Respondent.

-----X

An appeal and cross appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about March 12, 2009,

And the respective appellants having moved by separate motions for an enlargement of time in which to perfect their respective appeal and cross appeal,

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

It is ordered that the motions are granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the April 2010 Term. The attention of the parties is directed to Rule 600.11(d) with respect to a joint record and costs thereof.

ENTER:

  
DEPUTY Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of the Application of  
Detective Richard Vecchio,  
Tax Number 913537,  
Petitioner,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-5106  
Index No.116210/08

Raymond W. Kelly, as Police Commissioner  
of the City of New York and the City of  
New York,  
Respondents.

-----X

An Article 78 proceeding having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about March 24, 2009 (mot. seq. no. 001), to review a determination of respondents,

And petitioner having moved for an enlargement of time in which to perfect the aforesaid proceeding,

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 enlarging the time in which to perfect the proceeding to the May 2010 Term.

ENTER:

  
DEPUTY Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X

Rheda Brandt,

Plaintiff-Appellant,

-against-

M-5152

Index No. 312731/08

Bernard Brager,

Defendant-Respondent.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 30, 2009,

And plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal to nine months after entry of a judgment of divorce, 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 appeal withdrawn without prejudice to a timely appeal from a final judgment of said Supreme Court.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
Weiser LLP,

Plaintiff-Appellant,

M-5060

M-5159

-against-

Index No. 601805/05

Jeffrey S. Coopersmith, et al.,

Defendants-Respondents.  
-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about September 15, 2009,

And plaintiff-appellant having moved for an order sealing Volume X (10) of plaintiff's record on appeal (M-5060),

And defendants-respondents having cross-moved for an order sealing the volume of plaintiff's record on appeal which contains respondents' Exhibits NN, OO and PP (M-5159),

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

Ordered that the motion and cross motion are granted, and the Clerk is directed to file the aforementioned volumes of plaintiff's record on appeal "under seal".

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 December 15, 2009.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
Spar Incentive Marketing, Inc.,  
Plaintiff-Appellant-Respondent,

-against-

M-5232  
Index No. 603634/05

Thomas F. Hunter and Stimulys, Inc.,  
Defendants-Respondents-Appellants,

John Harper Hawkins III,  
Defendant.  
-----X

An appeal and cross appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about February 5, 2009,

And Robinson Brog Leinwand Greene Genovese & Gluck, P.C., having moved to withdraw as counsel for defendants-respondents-appellants,

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

Ordered that the motion to withdraw as counsel is granted on condition counsel serves a copy of this order upon all parties within 10 days of the date of entry hereof.

ENTER:

  
Deborah A. Spolony  
Clerk

CORRECTED ORDER – May 19, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

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

-against-

M-5154  
Ind. No. 4607/07  
583/08

Darwin Castro,  
Defendant-Appellant.  
-----x

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about January 30, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:



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 December 15, 2009.

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

-----X  
The People of the State of New York  
ex rel. William Johnson Belliard,  
Petitioner,

-against-

Carmine Labruzzo, Warden, George  
R. Vierno Center,  
Respondent.

M-4892

Ind. No. 1794/07  
B&C # 241-07-06623  
NYSID # 5252052N

-----X

The above-named petitioner having moved for, inter alia, a writ of habeas corpus to be issued from this Court,

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

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

It is further ordered that the habeas corpus proceeding herein be transferred to and be heard before a Justice (other than Hon. John S. Moore) of the Supreme Court of the State of New York, Bronx County, 851 Grand Concourse, Bronx, New York 10451, and it is further

Ordered that service by mail of a copy of this writ of habeas corpus, petition and supporting papers, by the Clerk of this Court, contemporaneous with the entry hereof, upon the Warden at Otis Bantum Correctional Center, 1600 Hazen Street, East Elmhurst, New York 11370; the Attorney General of the State of New York, 120 Broadway, New York, New York 10271; and the District Attorney of Bronx County, 198 East 161st Street, Bronx, New York 10451, be deemed due and sufficient notice. The motion is otherwise denied.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present - Hon. Peter Tom, Justice Presiding,  
James M. Catterson  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

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

Respondent,

-against-

Rodney McNeil,

Defendant-Appellant.

M-5174  
Ind. No. 2404/06

-----X

An order of this Court having been entered on October 22, 2009 (M-4178), inter alia, granting defendant leave to file a pro se supplemental brief in connection with the appeal from a judgment of the Supreme Court, New York County, rendered on or about January 29, 2008,

And defendant having moved for an extension of time in which to file the pro se supplemental brief,

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

It is ordered that the motion is granted to the extent of directing defendant to serve and file 10 copies of his pro se supplemental brief on or before February 1, 2010 for the April 2010 Term, to which Term the appeal is adjourned. The appeal will not be heard unless and until all material furnished to appellant has been returned.

ENTER:

  
DEPUTY CLERK.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Eugene Nardelli  
Dianne T. Renwick  
Helen E. Freedman  
Nelson S. Roman, Justices.

-----X  
Ben Umeze, M.D.,  
Plaintiff-Respondent,

-against-

M-4921  
M-5102  
Index No. 25626/03

Fidelis Care New York, New York State  
Catholic Health Plan, Inc., David Thomas,  
Regina Trainor and Chris Hall-Finney,  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about January 7, 2009,

And defendants having moved for an enlargement of time in which to perfect the aforesaid appeal (M-4921),

And plaintiff having cross moved to dismiss said appeal (M-5102),

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the March 2010 Term (M-4921). The cross motion to dismiss the appeal is granted unless the appeal is perfected for said March 2010 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent serves a copy of this order upon the appellants within 10 days after the date of entry hereof (M-5102).

ENTER:

  
DEPUTY CLERK.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present: Hon. Peter Tom, Justice Presiding,  
James M. McGuire  
Leland G. DeGrasse  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
Faye Williams,

Plaintiff-Respondent,

-against-

M-5052  
Index No. 6197/07

Harvey P. Insler, MD, et al.,

Defendants,

Signature Health Center, LLC,

Defendant-Appellant.  
-----X

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about January 14, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the April 2010 Term.

ENTER

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Eugene Nardelli  
Dianne T. Renwick  
Helen E. Freedman  
Nelson S. Roman, Justices.

-----X  
Andrew Matias, an infant by his  
mother and natural guardian,  
Leticia Palma,

Plaintiffs-Appellants,

-against-

M-5077  
Index No. 14793/04

WDJ Realty Corp., WDJ Realty V LLC,  
WDJ Realty IV Corp., and WDJ Realty  
VI, LLC,

Defendants-Respondents.  
-----X

Plaintiffs having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about January 26, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the April 2010 Term.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Eugene Nardelli  
Dianne T. Renwick  
Helen E. Freedman  
Nelson S. Roman, Justices.

-----X  
New York City Transit Authority,  
Plaintiff-Appellant,

-against-

M-4943  
Index No. 400672/08

Philbert Gorrick,  
Defendant-Respondent.

-----X

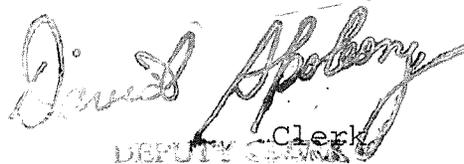
An appeal having been taken from the order of the Supreme Court, New York County, entered on or about July 27, 2009 (mot. seq. no. 002), said appeal having been perfected for the January 2010 Term,

And Stuart Lichten, Esq., counsel for plaintiff-appellant, having moved for leave to withdraw as counsel on the aforesaid appeal, and for other relief,

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

It is ordered that the motion is granted on condition that counsel for plaintiff-appellant serves a copy of this order upon all parties within 10 days of the date of entry hereof. The aforesaid appeal is adjourned to the March 2010 Term.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT - Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
James M. McGuire  
Leland G. DeGrasse  
Helen E. Freedman, Justices.

-----x  
Mauhoi Tung,  
Plaintiff-Appellant,

-against-

M-4902  
Index No. 119616/03

Henry Chiu, D.D.S., doing business as  
Mott Street Dental Services, P.C.,  
Defendant-Respondent.

-----x  
An appeal having been taken to this Court by plaintiff from an order of the Supreme Court, New York County, entered on or about February 4, 2009 (mot. seq. no. 004),

And defendant having moved pursuant to CPLR 6312(b) for an order compelling plaintiff to post an undertaking for sums of judgments entered against him, with interest, computed pursuant to CPLR 5002 and CPLR 5003,

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 matter is remanded to Supreme Court for the fixing of an undertaking pursuant to CPLR 6312(b).

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

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

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

-against-

M-3283A  
Case No. 9396C/06

Prince Adomako,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, Bronx County, rendered on or about July 11, 2007, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record. The order of this Court entered on September 8, 2009 (M-3283) is hereby recalled and vacated.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

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

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

-against-  
Jose Cruz,  
Defendant-Appellant.

M-5046  
Ind. Nos. 4201/07  
4202/04

-----X  
Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of **resentence** of the Supreme Court, New York County, rendered on or about July 15, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER:

  
Clerk  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
David B. Saxe  
James M. Catterson  
Rolando T. Acosta, Justices.

-----X  
Board of Managers of the Windsor  
Park Condominium,  
Plaintiff-Appellant,

-against-

M-5192  
Index No. 113248/08

David Sadek,  
Defendant-Respondent.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about October 19, 2009 (mot. seq. no. 001),

And plaintiff-appellant having moved in the nature of a preliminary appellate injunction pursuant to CPLR 5518 with respect to barring defendant from allowing use of units he owns in plaintiff's building by outside persons,

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  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Eugene Nardelli, Justices.

-----X  
Gabriel Capital, L.P., et al.,  
Plaintiffs-Respondents,

-against-

CAIB Investmentbank Aktiengesellschaft,  
etc.,  
Defendant-Appellant,

SEALED

M-3568

M-3569

Index No. 601440/03

CIS Emerging Growth Limited,  
Defendant.

-----X

A decision and order of this Court having been entered on April 25, 2006, unanimously affirming the order of the Supreme Court, New York (Karla Moskowitz, J.), entered on July 21, 2004, which, to the extent appealed from, denied defendant-appellant's motion to dismiss for lack of jurisdiction (Appeal No. 7804), and unanimously reversing the order of said court and Justice, entered on or about April 27, 2005, which, inter alia, granted denial of defendant-appellant CAIB's motion to dismiss or stay based on an arbitration clause, and staying the matter pending arbitration (Appeal No. 7805),

And defendant-appellant having moved for an order granting leave to file, under seal, a supporting document consisting of a letter granting plaintiffs-respondents' application for a stay of arbitration proceedings from the arbitral tribunal dated July 15, 2009 (Exhibit 1 to the moving papers) [M-3568],

And plaintiffs-respondents having cross-moved for renewal and/or vacatur of the provisional stay granted by the decision and order of this Court entered on April 25, 2006 (Appeal Nos. 7804-7805), and for other relief [M-3569],

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

It is ordered that the motion is granted and defendant-appellant is directed to file **under seal** 10 copies of Exhibit 1 to the moving papers. The cross motion is denied.

ENTER:



David J. Clark  
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 December 15, 2009.

Present: Hon. Richard T. Andrias, Justice Presiding,  
James M. Catterson  
Dianne T. Renwick  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

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

-against-

M-5045  
Ind. No. 179/05

Adolf Gutt, also known as Rafael J.  
Lugo,  
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about June 2, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

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

Steven M. Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. (212)577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

DEPUTY CLERK.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Karla Moskowitz  
Sheila Abdus-Salaam, Justices.

-----X  
Best Buy Co., Inc., Yuco Real Estate  
Company, Inc., Schimenti Construction  
Company, LLC. and Transcontinental  
Insurance Company,  
Plaintiffs-Appellants-Respondents,

-against-

M-5160  
M-5185  
Index No. 600781/06

Utica National Insurance Company,  
formerly known as Utica National  
Assurance Company,  
Defendant-Respondents-Appellant,

-and-

Sage Electrical Contracting, Inc.,  
Defendant.

-----X

An appeal and cross appeal having been taken from an order of the Supreme Court, New York County, entered on or about January 28, 2009,

And plaintiffs having moved for an enlargement of time in which to perfect the direct appeal (M-5160),

And defendant Utica National Insurance Company having cross moved for an enlargement of time in which to perfect the cross appeal (M-5185),

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

It is ordered that the motion and cross motion are granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the June 2010 Term.

ENTER:

*David Apolony*  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT - Hon. David B. Saxe, Justice Presiding,  
David Friedman  
Rolando T. Acosta  
Dianne T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X  
Linmar Construction Corp.,  
Plaintiff-Appellant,

-against-

M-5026  
Index No. 603154/03

Albert Palancia Agency, Inc.,  
Defendant-Respondent.

-----X  
Albert Palancia Agency, Inc.,  
Third-Party Plaintiff-Appellant,

-against-

JJ Farber Lottman Co., Inc.,  
Third-Party Defendant-Respondent.

(And a fourth-party action)

-----X

An appeal having been taken by plaintiff Linmar Construction Corp. from the order of the Supreme Court, New York County, entered on or about September 27, 2007 (mot. seq. no. 004),

And an appeal (denominated a cross appeal) having been taken by defendant/third-party plaintiff, Albert Palancia Agency, Inc., from so much of the aforesaid order of the Supreme Court, which dismissed the third-party and fourth-party complaints,

And plaintiff-appellant, Linmar Construction Corp., having moved for an enlargement of time in which to perfect its 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 plaintiff-appellant Linmar's time in which to perfect its appeal to the April 2010 Term.

ENTER:   
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

PRESENT: Hon. David B. Saxe, Justice Presiding,  
David Friedman  
Rolando T. Acosta  
Dianne T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of the Application of  
Sharon Parker,  
Petitioner-Appellant,

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

-against-

M-5241  
M-5023  
Index No. 402253/08

New York City Housing Authority,  
Respondent-Respondent.

-----X

Respondent-respondent having moved (M-5241) to dismiss the appeal taken from the order of the Supreme Court, New York County, entered on or about May 28, 2009 (mot. seq. no. 001),

And petitioner-appellant having cross moved (M-5023) for an enlargement of time in which to file the record on appeal,

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

It is ordered that the motion to dismiss the appeal (M-5241) is granted unless the appeal is perfected for the April 2010 Term. The cross motion is granted to the extent of enlarging appellant's time in which to perfect the appeal to said April 2010 Term (M-5023). Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent serves a copy of this order upon the appellant within ten days after the date of entry hereof.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

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

-----X  
Pedro Quinones,  
Plaintiff,

-against-

M-4237  
Index No. 300528/06

Ahmed Ali Fadah, Mt. Eden Stationery &  
Grocery, Inc., doing business as Mt.  
Eden Stationery/Grocery, Mt. Eden  
Candy, Inc., doing business as Mt.  
Eden Stationery/Grocery, Ende Realty  
Company, LLC., 4710 Jero Realty Corp.  
and 3830 Jeromi LLC,  
Defendants.

-----X

Defendants having moved for dismissal of the appeal taken from an order of the Civil Court, Bronx County, entered on or about April 3, 2008,

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

The Clerk of this Court is directed to transfer the aforesaid motion to the Appellate Term, First Department for disposition.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

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

-----X  
In the Matter of the Applications of  
the Bronx Committee for Toxic Free  
Schools, Jane Maisel, Chaira Salem,  
Omar Salem (a minor), Kathleen Saunders,  
John Fielder, D. Lee Ezell and Yolanda  
Gonzalez,

Petitioners-Respondents,

M-4993  
Index No.13800/07

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

New York City School Construction  
Authority, New York City Department  
Of Education, City of New York,  
Respondents-Appellants.

-----X

Respondents-appellants having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about October 28, 2008,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the May 2010 Term.

ENTER:

  
David Spolony  
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 December 15, 2009.

PRESENT - Hon. David Friedman, Justice Presiding,  
James M. McGuire  
Dianne T. Renwick  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
John Dooling and Stacey Dooling,  
Plaintiffs-Respondents,

-against-

M-4692  
Index No. 112269/99

NTX Interiors, Inc.,  
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 16, 2009 (mot. seq. nos. 002 and 003),

And plaintiffs-respondents having moved, for dismissal of the appeal as untimely taken,

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

Ordered that the motion is denied and the notice of appeal is deemed timely filed.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in in the County of New York on December 15, 2009.

PRESENT: Hon. David Friedman, Justice Presiding,  
James M. McGuire  
Dianne T. Renwick  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

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

-against-

Maurice Cohen, et al.,  
Defendants-Appellants,

Summerson International Establishment,  
Blue Ocean Finance, Ltd. And Iderval  
Holding, Ltd.,  
Defendants.

M-4788  
M-4931  
Index No. 109565/03

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about January 30, 2009 (mot. seq. no. 019),

And defendants-appellants, Maurice Cohen, and non parties Sonia Cohen, Leon Cohen and Lea Cohen, having moved for an enlargement of time in which to perfect the appeal (M-4788),

And plaintiff-respondent having cross moved to dismiss the aforesaid appeal (M-4931),

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to on or before February 1, 2010 for the April 2010 Term, with no further enlargements to be granted (M-4788). The cross motion to dismiss the appeal is granted unless the appeal is perfected for said April 2010 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent serves a copy of this order upon the appellant(s) within ten days after the date of entry hereof (M-4931).

ENTER

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present: Hon. John W. Sweeny, Jr., Justice Presiding,  
John T. Buckley  
Leland G. DeGrasse  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of

Jose Luis T. and Ezequiel T.,

M-4049

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

Docket Nos. NN14767/07  
NN14769/07

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

Carmen A.,  
Respondent-Appellant.

- - - - -  
Michael S. Bromberg, Esq.,  
Law Guardian for the Children.

-----X

Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from the order of the Family Court, New York County, entered on or about August 13, 2009, and for assignment of counsel, a free copy of the transcript, and related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, Telephone No. (603) 313-1951, as counsel for purposes of prosecuting the appeal; (2) directing

the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order and; (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court. (See M-4108, decided simultaneously herewith.)

ENTER:

  
DEPUTY CLERK

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 15, 2009.

Present: Hon. John W. Sweeny, Jr., Justice Presiding,  
John T. Buckley  
Leland G. DeGrasse  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of

Jose Luis T. and Ezequiel T.,

M-4108

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

Docket Nos. NN14767/07  
NN14769/07

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

Carmen A.,  
Respondent-Appellant.

-----  
Michael S. Bromberg, Esq.,  
Law Guardian for the Children.

-----X  
An appeal having been taken to this Court from the order of the Family Court, New York County, entered on or about August 13, 2009,

And Kao Pin Lew, Esq., law guardian for the children, having moved for an order to be relieved as law guardian and to substitute other counsel to respond to 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 movant as law guardian and substituting, pursuant to Article 18b of the County Law and § 1120 of the Family Court Act, Michael S. Bromberg, Esq., 44 Hampton St., Sag Harbor, NY 11963, Telephone No. (631) 725-0641, as law guardian for purposes of responding to the appeal. (See M-4049, decided simultaneously herewith.)

ENTER:

  
Deputy Clerk

**PM ORDERS**

**ENTERED**

**DECEMBER 10, 2009**

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 December 10, 2009.

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

-----x  
169 Bowery LLC,

Plaintiff,

-against-

M-5306  
Index No. 116120/09

Collective Hardware, LLC, et al.,

Defendants.  
-----x

Plaintiff having moved, pursuant to CPLR 5704(a), for an order of this Court granting certain relief denied by a Justice of the Supreme Court, New York County, on or about November 18, 2009,

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

It is ordered that the motion is 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 December 10, 2009.

Present - Hon. John W. Sweeny, Jr., James M. Catterson Rosalyn H. Richter Helen E. Freedman Sheila Abdus-Salaam,	Justice Presiding,    Justices.
------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------

-----x  
425 Park Avenue Company,

Plaintiff-Respondent,

-against-

425 Park Avenue Ground Lessee, L.P.,  
et al.,

Defendants-Appellants.  
-----x

M-5246  
Index No. 601934/07

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about June 24, 2009, and said appeal having been perfected,

And defendants-appellants having moved, pursuant to CPLR 5519(c), for a stay of hearing before a referee pending hearing and determination of the aforesaid appeal, and for other relief,

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

It is ordered that the motion is denied.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 10, 2009.

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

-----X  
Joan Banach,

Plaintiff-Respondent,

-against-

M-5019  
Index No. 600918/09

The Dedalus Foundation, Inc.,

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 October 28, 2009,

And defendant-appellant having moved for a stay of enforcement of 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 to the extent of continuing the interim relief granted by the order of a Justice of this Court dated November 4, 2009, on condition the appeal is perfected on or before January 4, 2010 for the March 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof.

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 December 10, 2009.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David B. Saxe  
James M. McGuire  
Sallie Manzanet-Daniels, Justices.

-----X  
Ivan Rodriguez,  
Plaintiff-Appellant,

-against-

M-5165  
M-5207  
Index No. 7985/02

E&P Associates, Wayne Eisenbaum, Phyllis  
Cohen doing business as E&P Associates,  
Dyker Associates and Dyker Associates Inc.,  
AMPM Enterprises LLC., AMPM Enterprises and  
Alan J. Helene,  
Defendants-Respondents,

Modell's NY, Inc. and Modell's NY II, Inc.,  
Defendants-Respondents,

Mayer Equity Inc., Emil Mayer,  
Defendants-Respondents,

Nicholas Pará, Inc. and Nicholas  
Parascondola,  
Defendants-Respondents.

-----X  
[And a third-party action]  
-----X

Index No. 85992/07

An appeal having been taken to this Court by defendants Modell's NY, Inc., and Modell's NY II, Inc., from the order of the Supreme Court, Bronx County, entered on or about August 14, 2008, and plaintiff having taken a cross appeal from the aforesaid order of Supreme Court,

And defendants Modells, NY Inc. and Modell's NY II, Inc., having abandoned the aforesaid direct appeal,

And plaintiff having perfected the aforesaid cross appeal as a direct appellant,

And defendants-respondents E&P Associates, et al., having moved, inter alia, to strike the respondents brief filed by the Modell defendants-respondents and/or for related relief (M-5165),

And plaintiff-appellant having cross moved, inter alia, to strike the respondents brief filed by the Modell defendants-respondents, for leave to serve and file a reply brief and for related relief (M-5207),

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

Ordered that the motion (M-5165) is denied without prejudice to movant filing a reply brief addressed solely to the propriety of the issue advanced in the Modell brief that Supreme Court erred in granting summary judgment to other party defendants on or before January 15, 2010, and it is further

Ordered that the cross motion (M-5207) is granted to the extent of allowing plaintiff to file a reply brief limited to 4,000 words (20 pages) on or before January 15, 2010, and it is further,

Ordered that the appeal is adjourned to the February 2010 Term.

ENTER:

  
Clerk: