

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 August 24, 2010.

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

-----X  
John Raniola, Bronx Public  
Administrator of the Estate of  
Osvaldo Quinones, deceased,

Plaintiff-Appellant,

-against-

M-3620X  
Index No. 24537/98

Montefiore Medical Center, Luis A.  
Sanchez, M.D. and Pat Doe, etc.,

Defendants-Respondents.  
-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about August 21, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" July 16, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----X  
Rodney Hilton Brown,  
Plaintiff-Respondent,

-against-

M-3621X  
Index No. 600946/08

Intrepid Museum Foundation, Inc., etc.,  
Defendant-Appellant.

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

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about October 21, 2009 (mot. seq. no. 002),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" July 16, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----X  
First Republic Group Realty LLC  
and FRGR Managing Member LLC,  
Plaintiffs-Appellants,

-against-

M-3657  
Index No. 601743/08

Citigroup Global Markets Realty Corp.,  
Defendant-Respondent.

-----X  
Citigroup Global Markets Realty Corp.,  
Counterclaim-Plaintiff,

-against-

First Republic Group Realty, LLC and  
FRGR Managing Member LLC,  
Counterclaim-Defendants,

-and-

Moses Stern, also known as Mark Stern,  
Additional Defendant on Counterclaims.

-----X

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about February 4, 2009 (mot. seq. no. 003) and March 9, 2009 (mot. seq. no. 007), respectively,

Now, upon reading and filing the stipulations of the parties hereto, dated May 10, 2010 and July 19, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are withdrawn in accordance with the aforesaid stipulations.

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 August 24, 2010.

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

-----X  
The Board of Managers of 310 West  
52<sup>nd</sup> St. Condominium,

Plaintiff-Appellant,

-against-

M-3688X  
Index No. 105762/08

El-Ad 52 LLC, et al.,

Defendants-Respondents.  
-----X

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

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" July 20, 2010, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----X  
Mohammed Tingah,

Plaintiff-Respondent,

-against-

M-3689X  
Index No. 303971/07

Twin Parks Southeast Houses, Inc.,  
et al.,

Defendants-Appellants.  
-----X

An appeal having been taken from order of the Supreme Court, Bronx County, entered on or about October 5, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" July 20, 2010, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----x

In the Matter of An Order of  
Conditions Pursuant to  
CPL 330.20 in Relation to

M-1785  
Ind. No. 1197/80

Dennis S.,

Defendant-Respondent.

-----x

Defendant-respondent having moved in the nature of a writ of prohibition with respect to the order of conditions of a Justice of the Supreme Court, New York County, entered on or about March 23, 2010,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Kim L. Darrow, Esq., Principal Attorney for the Mental Hygiene Legal Service, Second Judicial Department dated April 2, 2010, and due deliberation having been had thereon,

It is ordered that the application to commence the proceeding is deemed withdrawn in accordance with the aforesaid correspondence.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

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

-against-

M-3341  
Ind. No. 2231/09

Premnath Deolall,  
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 November 2, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:

  
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 August 24, 2010.

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

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

-against-

M-3342  
Ind. No. 1411/99

Nelson Flores, also known as  
Tony Martinez, also known as  
Flores Nelson,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about April 5, 2010, denying resentence, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

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

ENTER:

  
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 August 24, 2010.

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

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

-against-

M-2466  
Ind. No. 6093/08

Albert Nitti,  
Defendant-Appellant.

-----X

An order of this Court having been entered on February 9, 2010 (M-126), granting defendant leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about September 1, 2009, and assigning Steven Banks, 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 assigned counsel Steven Banks, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, 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 120 days from the date of this order or the filing of the record, whichever is later.

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 August 24, 2010.

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

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

-against-

M-2288  
Case No. 2015C/05

Jose Carrasco,  
Defendant-Appellant.

-----X

An order of this Court having been entered on July 7, 2009 (M-2525) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about December 19, 2008, and assigning Robert S. Dean, Esq., for purposes of prosecuting said appeal,

And defendant-appellant having moved to relieve Robert S. Dean, Esq., as counsel on his appeal and to substitute Leonard J. Levinson, Esq., for purposes of prosecuting his appeal, and for the continuation of poor person 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 assigned counsel Robert S. Dean, Esq., as counsel to prosecute defendant's appeal. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later. So much of the motion which seeks to assign Leonard J. Levinson, Esq., as counsel on the appeal is denied, as unnecessary.

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 August 24, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
John W. Sweeny, Jr.  
Rolando T. Acosta  
Diane T. Renwick  
Nelson S. Román, Justices.

-----X  
Elena Strujan,

Plaintiff-Appellant,  
  
-against-

M-2345  
Index No. 406368/07

Rainbow Ace Hardware, et al.,

Defendants-Respondents.  
-----X

Plaintiff-appellant having moved for leave to prosecute, as a poor person, the appeal from order of the Supreme Court, New York County, entered on or about September 9, 2009 (mot. seq. no. 004), 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.

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 August 24, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Dianne T. Renwick  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----X  
Portia A. Hinton,  
Plaintiff-Respondent,

-against-

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

M-2963  
Index No. 14126/07

"John Doe"  
Defendant.

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

-----X  
Plaintiff-respondent having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 4, 2010 (Appeal No. 2686),

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 August 24, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
Richard T. Andrias  
David B. Saxe  
Leland G. DeGrasse, Justices.

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

-against-

M-3083  
Ind. No. 4515/08

Osiris Marte,  
Defendant-Appellant.

-----X

Defendant having renewed the motion 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 30, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:



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 August 24, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
James M. Catterson  
Karla Moskowitz  
Rolando T. Acosta, Justices.

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

-against-

M-2536  
Ind. No. 3204/07

Pete Arroyo,  
Defendant-Appellant.

-----X

Defendant having moved 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 May 1, 2009, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

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

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Tel. 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.

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 August 24, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
James M. Catterson  
Karla Moskowitz  
Leland G. DeGrasse, Justices.

-----X  
In the Matter of the Application of  
the State of New York,  
Petitioner-Respondent,

For a Judgment Pursuant to Article 10 M-2478  
of the Mental Hygiene Law, Index No. 341104/08

-against-

C.B.,  
Respondent-Appellant.

-----X

An order of this Court having been entered on April 27, 2010 (M-667), granting respondent-appellant leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about August 24, 2009, and assigning Marvin Bernstein, Esq., as counsel for purposes of prosecuting the appeal,

And respondent-appellant having moved for an order relieving assigned counsel and substituting other counsel to prosecute 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 striking the designation of assigned counsel, Marvin Bernstein, Esq., as counsel to prosecute the appeal and substituting, pursuant to Section 722 of the County Law, Andrea Risoli, Esq., 954 Lexington Avenue, New York, NY 10021, Telephone No. (212) 374-1121, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later. (See M-2915, decided simultaneously herewith.)

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----x  
In the Matter of the Application of  
the State of New York,  
Petitioner-Respondent,

For a Judgment Pursuant to Article 10 M-2915  
of the Mental Hygiene Law, Index No. 341104/08

-against-

C.B.,  
Respondent-Appellant.

-----x

Respondent-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 August 24, 2009,

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

It is ordered that the motion is denied, as academic.  
(See M-2478, decided simultaneously herewith.)

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
James M. Catterson  
James M. McGuire  
Nelson S. Román, Justices.

-----x  
John Bradbury,  
Plaintiff-Respondent-Appellant/  
Appellant,

M-2707

M-2732

M-2983

-against-

Index No. 120839/03

342 West 30th Street Corp.,  
Defendant-Appellant-Respondent/  
Respondent.  
-----x

An appeal and cross appeal having been taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about May 12, 2009,

And an appeal having been taken to this Court by plaintiff from an order of the Supreme Court, New York County, entered on or about January 18, 2010,

And defendant having moved (M-2707) for an enlargement of time in which to perfect its direct appeal from the order entered May 12, 2009,

And plaintiff having moved (M-2732) for consolidation of the aforesaid appeal and cross appeal and appeal, and for related relief,

And defendant having cross-moved (M-2983) to dismiss the appeal from the order entered January 18, 2010,

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

It is ordered that the motions (M-2707/M-2732) are granted to the extent of directing the parties to perfect the appeal and cross appeal and appeal, which are consolidated, on or before September 7, 2010 for the November 2010 Term. The cross-motion (M-2983) to dismiss the appeal from the order entered January 18, 2010 is denied, without prejudice to addressing the issue on the appeal. The attention of the parties is directed to Rule 600.11(d) with respect to a joint record and costs thereof.

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 August 24, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
James M. Catterson  
Karla Moskowitz  
Rolando T. Acosta, Justices.

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

-against-

Wonder Williams,  
Defendant-Appellant.

M-2631  
Ind. Nos. 58/07  
1832/08

-----X

Orders of this Court having been entered on February 4, 2010 (M-84) and March 23, 2010 (M-799), granting defendant leave to prosecute, as a poor person, the appeal from judgments of the Supreme Court, New York County, rendered on or about April 6, 2009 and December 21, 2009, respectively, and assigning Richard M. Greenberg, Esq., as counsel to prosecute the appeals; 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 assigned counsel Richard M. Greenberg, Esq., as counsel to prosecute defendant's appeals, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523 Dean, Esq., as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

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 August 24, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
Rolando T. Acosta  
Leland G. DeGrasse  
Roslyn H. Richter, Justices.

-----X  
Brian W. Baxter, on behalf of the  
First-Generation, Low-Income College  
Student,

Plaintiff-Appellant,

-against-

M-2805  
Index No. 303121/07

Columbia University, Nancy Harsh and  
Citibank (N.A.),

Defendants-Respondents.  
-----X

Plaintiff-appellant having moved for reargument of the decision and order of this Court entered on April 22, 2010 (Appeal No. 2591),

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 August 24, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Helen E. Freedman, Justices.

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

-against-

M-1618  
Ind. No. 4732/05

Sidney E. Purdie,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on April 8, 2008 (Appeal No. 3295), unanimously affirming a judgment of the Supreme Court, New York County (Gregory Carro, J.), rendered on June 1, 2006,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate 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 said application 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 August 24, 2010.

PRESENT - Hon. Angela Mazzairelli, Justice Presiding,  
Dianne T. Renwick  
Helen E. Freedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam, Justices.

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

-against-

M-2863  
Ind. No. 4809/08

James Charleston,  
Defendant-Appellant.

-----X

An order of this Court having been entered on August 18, 2009 (M-3317) 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 June 23, 2009, and assigning Steven Banks, 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 assigned counsel Steven Banks, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center For Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, 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 120 days from the date of this order or the filing of the record, whichever is later.

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 August 24, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
Helen E. Freedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam, Justices.

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

Respondent,

-against-

M-2918  
Ind. No. 4596/06

Lee Carr,

Defendant-Appellant.  
-----X

An order of this Court having been entered on May 20, 2010 (M-1283) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about June 10, 2009, and assigning Robert S. Dean, 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 assigned counsel Robert S. Dean, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

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 August 24, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Diane T. Renwick  
Helen E. Freedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam, Justices.

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

-against- M-2919  
Ind. No. 41056C/08

Paul Wrighton,  
Defendant-Appellant.  
-----X

An order of this Court having been entered on November 19, 2009 (M-4442) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about September 11, 2009, and assigning Steven Banks, Esq., as counsel to prosecute the appeal,

And assigned counsel, Steven Banks, Esq., having moved for an order to be relieved as counsel for defendant and to substitute other counsel to prosecute defendant's 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 striking the designation of assigned counsel Steven Banks, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center For Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, 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 120 days from the date of this order or the filing of the record, whichever is later.

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 August 24, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Leland G. DeGrasse  
Sheila Abdus-Salaam  
Sallie Manzanet-Daniels, Justices.

-----x  
2281 First Realty, LLC,  
Plaintiff-Respondent,

-against-

Warminster Investors Corporation,  
also known as Warminster Investments  
Corporation,  
Defendant-Respondent,

M-2405  
Index No. 111121/08

Isa Brija, et al.,  
Defendants-Appellants.

-----x

Defendants-appellants having moved for a stay of enforcement of the order and judgment (one paper) of the Supreme Court, New York County, entered on or about April 28, 2010, pending hearing and determination of the appeal taken therefrom,

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

It is ordered that the motion is granted on condition the appeal is perfected on or before October 4, 2010 for the December 2010 Term, and upon further condition that appellants post an undertaking in the amount of \$25,000 within 20 days of service of a copy of this order upon respondents. Upon failure to meet either condition, an order vacating the stay may be entered ex parte, provided plaintiff-respondent serves a copy of this order upon appellants 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 August 24, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Diane T. Renwick  
Helen E. Freedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of the Application of  
Gladys Cubilete,  
Petitioner,

For a Judgment Pursuant to Article 78 M-2965  
of the Civil Practice Law and Rules, Index No. 101331/09

-against-

John B. Rhea, as Chairperson  
and Member of the New York City  
Housing Authority, et al.,  
Respondents.  
-----X

An Article 78 proceeding to review a determination of respondents having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about November 9, 2009,

And petitioner having moved, pursuant to CPLR 1019, for an order substituting John B. Rhea for Ricardo Elias Morales as respondent/chairperson in this action,

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 John B. Rhea is hereby substituted for Ricardo Elias Morales, as respondent/chairperson in this action.

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 August 24, 2010.

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

-----X  
The Patriot Group, LLC,  
Plaintiff-Respondent,

-against-

M-3082  
Index No. 102096/09

504 West 22<sup>nd</sup> St. Corp. and Thomas Pollak,  
Defendants-Appellants,

-and-

197 10<sup>th</sup> Avenue, LLC, et al., etc.,  
Defendants.

-----X

Plaintiff-respondent having moved to dismiss the appeal taken from the order of the Supreme Court, New York County, entered on or about January 12, 2010,

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

It is ordered that the motion is granted to the extent of dismissing the appeal unless it is perfected on or before October 4, 2010 for the December 2010 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided that plaintiff-respondent serves a copy of this order upon appellants 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 August 24, 2010.

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

-----X  
In the Matter of

Jayvien T. and Casey Ann T.,

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

M-3013  
Docket Nos. B17065/09  
B17066/09

- - - - -  
Administration for Children's  
Services and New Alternatives for  
Children,  
Petitioners-Respondents,

Marisol T.,  
Respondent-Appellant.

- - - - -  
Steven Banks, Esq.,  
Law Guardian for the Child.

-----X  
In the Matter of

Casey T.,

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

Docket No. NN2661/08

- - - - -  
Commissioner of Social Services of  
the City of New York,  
Petitioner-Respondent,

Marisol T.,  
Respondent-Appellant.

-----X

Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeals (Docket Nos. B17065/09 and B17066/09 and Docket No. NN2661/08) taken from the orders of the Family Court, New York County, both entered on or about May 4, 2010, 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, Susan Jacobs, Esq., Center for Family Representation, Inc., 116 John Street, 19<sup>th</sup> Floor, New York, New York 10038, Telephone No. 212-691-0950, as counsel for purposes of prosecuting both appeals; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record(s) 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(s) from the Family Court to this Court. The Clerk of the Family Court shall transfer the record(s) upon receipt of this order and; (4) directing appellant to perfect the appeals within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:



Clerk.

---

<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 August 24, 2010.

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

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

-against-

M-3004  
SCI No. 254/98

Jose Rodriguez, also known as  
Juan Rivera Escalante,  
Defendant-Appellant.

-----X  
Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about May 13, 2010, **denying resentence**, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

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 prosecuting 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 August 24, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
David Friedman  
Eugene Nardelli  
Roland T. Acosta, Justices

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

-against-

M-2879  
Ind. No. 6800/03

Mike Joseph,  
Defendant-Respondent.

-----X

Defendant-respondent having moved for leave to respond, as a poor person, to the People's appeal from the judgment of **resentence** of the Supreme Court, New York County, rendered on or about April 27, 2010, and for assignment of counsel,

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) 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 the People and 10 copies thereof are filed with this Court; and (2) assigning, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, as counsel for purposes of responding to the appeal.

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 August 24, 2010.

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

-----X  
In the Matter of the Application of  
Emile Auguste,  
Petitioner-Appellant,

For a Judgment Pursuant to Article  
78 of the CPLR,

M-3318  
Index No. 110221/09

-against-

Martin F. Horn, et al.,  
Defendant-Respondent.

-----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 October 26, 2009 (mot. seq. no. 001), to review a determination of respondents,

And petitioner having moved for leave to prosecute the proceeding as a poor person, upon the original record and reproduced petitioner's 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 denied, with leave to renew upon petitioner-appellant's submission of a detailed notarized affidavit, in compliance with CPLR 1101(a), including statement of facts to show merit of contentions, and attaching copies of petitioner's income tax returns for the years 2008 and 2009.

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 August 24, 2010.

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

-----X  
The People of the State of New York  
ex rel. Joseph Richards,

Petitioner-Appellant,

-against-

M-3036  
Index No. 403203/09  
Ind. No. 1549/09

Katie Mulvey, Warden, et al.,

Respondents-Respondents.  
-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about April 8, 2010, 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.

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 August 24, 2010.

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

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

-against-

M-3009  
Ind. No. 147/02

Shakur Young, also known as  
Regillio Young,  
Defendant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about December 22, 2008, and for poor person relief, and assignment of appellate counsel, 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 denied. (CPL 460.30 subd. 1.)

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 August 24, 2010.

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

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

Cecilia Gullas,  
Petitioner,

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

M-2736  
Index No. 400303/09

-against-

The New York City Department of Housing  
Preservation and Development, et al.,  
Respondents.

-----X

An Article 78 proceeding to review a determination of respondents having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about July 24, 2009,

And petitioner having moved for leave to prosecute, as a poor person, the aforesaid proceeding, for leave to have the proceeding heard on the original record and upon a reproduced appellant's brief, for an enlargement of time in which to perfect the proceeding, 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 enlarging the time in which to perfect the proceeding to the December 2010 Term. So much of the motion which seeks poor person relief 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 August 24, 2010.

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

-----X

The People of the State of New York,  
Respondent,

-against-

M-2917  
Ind. No. 30043/07

Brian McGarghan,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, rendered on or about December 7, 2007,

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 December 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 August 24, 2010.

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

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

-----  
Malcolm G.,  
Petitioner-Appellant,

M-3051  
Docket Nos. V2667/06  
V19028/05

-against-

Vivian G.,  
Respondent-Respondent.

-----X

An appeal having been taken from the order of the Family Court, Bronx County, entered on or about September 16, 2009,

And petitioner-appellant father having moved for an enlargement of time in which to perfect the appeal, for leave to prosecute said appeal as a poor person, 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 enlarging the time to perfect the appeal to on or before October 4, 2010 for the December 2010 Term. So much of the motion which seeks poor person relief and the assignment of counsel is denied, with leave to renew upon submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth facts sufficient to establish that appellant has no funds or assets with which to prosecute appeal.

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 August 24, 2010.

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

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

-against-

Keith Brock and Gilberto Sosa,  
Defendants-Respondents.

M-3194  
Ind. Nos. 5394/98  
7375/02

-----X  
Appeals having been taken to this Court by the People from orders of the Supreme Court, New York County, entered on or about February 2, 2010,

And the People having moved for consolidation of the aforesaid appeals,

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

It is ordered that the motion is granted to the extent of permitting appellant to prosecute the appeals upon 10 copies of one record and one set of appellant's points covering the appeals and enlarging the time in which to perfect the consolidated appeals to the January 2011 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 August 24, 2010.

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

-----X  
In the Matter of

Odette D.,

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

M-3005  
Docket No. N11980/07

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

Sidney D.,  
Respondent-Appellant.

-----  
Steven Banks, Esq.,  
Law Guardian for the Child.

-----X

An appeal having been taken to this Court by respondent-appellant from the order of the Family Court, Bronx County, entered on or about November 20, 2008,

And assigned counsel, Geoffrey P. Berman, Esq., having moved for an order relieving him as appellant's counsel, and withdrawing 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 Geoffrey P. Berman, Esq., as counsel, and the appeal is deemed abated by reason of the applicant's death.

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 August 24, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
David Friedman  
Rolando T. Acosta  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
William Simmons, etc., et al.,  
Plaintiffs-Respondents,

-against-

M-3201  
Index No. 22045/06

New York City Health and Hospitals  
Corporation, etc.,  
Defendant-Appellant.

-----X

Plaintiffs-respondents 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 March 2, 2010 (Appeal No. 1907),

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 August 24, 2010.

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

-----X  
James V. Coleman, as Receiver,  
Petitioner-Landlord-Respondent,

-against-

M-3046  
Index No. 570053/09

Tony Ceraolo,  
Respondent-Tenant,

-and-

Hal Ozkurt and Royal Power, Inc.,  
Non-Party Intervenors-Appellants.

-----X

Non-Party Intervenors having moved for leave to appeal to this Court from the decision and order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about January 19, 2010,

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

It is ordered that the motion is 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 August 24, 2010.

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

-----X  
521 East 72<sup>nd</sup> St. Realty Company, LLC.,  
Petitioner-Landlord-Appellant,

-against-

M-3317  
Index No. 570788/09

Grace Louise Borovicka,  
Respondent-Tenant,

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

Respondents having moved for leave to appeal to this Court from the decision and order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about February 19, 2010,

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

It is ordered that the motion is 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 August 24, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

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

-against-

Aziz Shadid,

Defendant.

M-3057  
Ind. Nos. 6300/05  
2304/06  
5723/06

-----X

Defendant having renewed his motion for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about November 30, 2006, for leave to prosecute the appeal as a poor person, 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 (CPL 460.30 subd. 1).

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 August 24, 2010.

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

-----X  
U.S. Electronics, Inc.,  
Petitioner-Appellant,

-against-

Sirius Satellite Radio, Inc.,  
Respondent-Respondent.

M-3054  
Index No. 115867/08

-----X

Petitioner having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 11, 2010 (Appeal No. 2763),

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 August 24, 2010.

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

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

Respondent,

-against-

M-3368  
Ind. No. 244/08

July Carraco,

Defendant-Appellant.  
-----X

Counsel for defendant having moved for an order dismissing defendant's appeal taken from a judgment of the Supreme Court, New York County, rendered on or about December 22, 2008, 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.

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 August 24, 2010.

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

-----x  
Goldberg, Weprin & Ustin, LLP,

Plaintiff-Respondent-Appellant,

-against-

Leonard D. Pearlman,

M-3454  
M-3731  
Index No. 105015/08

Defendant-Appellant-Respondent.  
-----x

An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about May 3, 2010 (mot. seq. no. 006),

And defendant-appellant-respondent having moved for dismissal of the cross appeal as untimely, and for other relief,

And plaintiff-respondent-appellant having cross-moved for consolidation of the appeal and cross appeal,

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

It is ordered that the motion is denied. The cross motion is granted to the extent of directing the attention of the parties to Rule 600.11(d) with respect to a joint record and costs thereof. The parties are directed to perfect the appeal and cross appeal for the December 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 August 24, 2010.

Present: Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Diane T. Renwick  
Sheila Abdus-Salaam, Justices.

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

- - - - -  
Bonnie S. L.,  
Petitioner-Appellant,

M-3208  
Docket Nos. V2982-01/10K  
V2983-01/10K

-against-

Joseph P. L.,  
Respondent-Respondent.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about June 9, 2010, 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, Geoffrey P. Berman, Esq., 2005 Palmer Avenue, #176, Larchmont, NY 10538, Telephone No. (914) 834-3053, 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

August 24, 2010

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.

ENTER:

A handwritten signature in cursive script that reads "David Apolony". The signature is written in dark ink and is positioned above the printed name "Clerk.".

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 August 24, 2010.

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

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

-against-

M-3304  
Ind. No. 3559N/09

Sidney Wright,  
Defendant-Appellant.

-----X

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

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

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

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

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

ENTER:

  
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 August 24, 2010.

Present: Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Diane T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of

Kennya S.,

M-3330

Docket No. NN975/09

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

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

Evelyn F.,  
Respondent-Appellant.

- - - - -  
Steven Banks, Esq.,  
Law Guardian for the Child.

-----X

Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from the orders of the Family Court, New York County, entered on or about September 28, 2009 and May 28, 2010, respectively, 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, Susan Jacobs, Esq., Center for Family Representation, Inc., 116 John Street, 19<sup>th</sup> Floor,

August 24, 2010

New York, NY 10038, Telephone No. (212) 691-0950, 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.

ENTER:



Clerk.

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

Present: Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Diane T. Renwick  
Sheila Abdus-Salaam, Justices.

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

-against-

M-3297  
Ind. No. 1927/08

Damon O. Jones,  
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 May 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,

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, Javier A. Slano, 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:

  
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 August 24, 2010.

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

-----X  
Marth Gaviria,  
Plaintiff-Appellant,

-against-

M-3280  
Index No. 20306/04

High Bridge Congregation of  
Jehovah's Witnesses,  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about July 28, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the December 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 August 24, 2010.

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

-----X  
Michael Cikoja,  
Plaintiff-Appellant,

-against-

M-3350  
Index No. 16577/05

Alan R. Elstein,  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, Bronx County, entered on or about October 5, 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 December 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 August 24, 2010.

PRESENT - Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Dianne T. Renwick  
Sheila Abdus-Salaam, Justices.

-----x  
AMP Services Limited, as Trustee of  
The Walter and Anna Bronner Trust,  
etc.,  
Plaintiff-Respondent,

-against-

M-3387  
Index No. 106462/04

Walanpatrias Foundation, also known  
as Doraw and Walanpatrias Stiftung,  
Defendant-Appellant.  
-----x

Defendant-appellant having moved for a further enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about March 5, 2009 (mot. seq. no. 008),

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 December 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 August 24, 2010.

Present: Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Diane T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X  
Certified of New York, Inc.,

Plaintiff-Appellant,  
  
-against-

M-3419  
Index No. 650332/07

140 East 65<sup>th</sup> Street, LLC,  
  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about October 6, 2009 (mot. seq. no. 001),

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the December 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 August 24, 2010.

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

-----X  
Gryphon Domestic VI, LLC, OCM  
Opportunities Fund II, L.P.,  
OCM Opportunities Fund III, L.P.,  
Columbia/HCA Master Retirement  
Trust and Gramercy Emerging  
Markets Fund,  
Plaintiffs/Judgment Creditors-  
Appellants-Respondents,

-and-

Warner Mansion Fund,  
Plaintiffs/Judgment Creditor,

M-3356  
Index No. 603315/02

-against-

APP International Finance Company,  
B.V., P.T. Lontar Papyrus Pulp &  
Paper Industry and Asia Pulp & Paper  
Company Ltd., Indah Kiat International  
Finance Company B.V. and P.T. Indah  
Kiat Pulp & Paper Corporation,  
Defendants/Judgment Debtors-  
Respondents-Appellants.

-----X

Appellants and cross appellants having moved for an enlargement of time of the parties in which to perfect their respective appeals and cross appeals from the orders of the Supreme Court, New York County, entered on or about July 13, 2005, April 27, 2006, May 20, 2008 and June 24, 2008, respectively,

Now, upon reading and filing the papers with respect to the motion, including the stipulation of the parties dated June 28, 2010, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeals and cross appeals to on or before October 4, 2010 for the December 2010 Term, in accordance with the aforesaid stipulation, with no further enlargements to be granted. (See M-3357 and M-3358, decided simultaneously herewith).

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----X  
Gryphon Domestic VI, LLC, OCM  
Opportunities Fund II, L.P., OCM  
Opportunities Fund III, L.P.,  
Columbia/HCA Master Retirement  
Trust and Gramercy Emerging  
Markets Fund,  
Plaintiffs/Judgment Creditors-  
Appellants-Respondents,

-and-

Warner Mansion Fund,  
Plaintiff/Judgment Creditor,

-against-

APP International Finance Company, B.V., M-3357  
P.T. Lontar Papyrus Pulp & Paper Index No. 603315/02  
Industry and Asia Pulp & Paper  
Company, Ltd.,  
Defendants,

-and-

Indah Kiat International Finance Company,  
B.V., and P.T. Indah Kiat Pulp & Paper  
Corporation  
Defendants/Judgment Debtors,

-and-

Schnader Harrison Segal & Lewis LLP,  
Jones Day and Pillsbury Winthrop LLP,  
Non-Party Respondents,

-and-

White & Case LLP,  
Non-Party Respondent-Appellant.

-----X

August 24, 2010

Appellant and cross appellant having moved for an enlargement of the time of the respective parties in which to perfect the appeal and cross appeal from the consolidated orders of the Supreme Court, New York County, entered on or about January 19, 2006 (mot. seq. nos. 024, 025, 026, 027 and 028),

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

It is ordered that the motion is granted to the extent of enlarging the time of the parties in which to perfect the appeal and cross appeal to on or before October 4, 2010 for the December 2010 Term, in accordance with the aforesaid stipulation, with no further enlargements to be granted. (See M-3356 and M-3358, decided simultaneously herewith).

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----X  
Gryphon Domestic VI, LLC, OCM  
Opportunities Fund II, L.P.,  
OCM Opportunities Fund III, L.P.,  
Columbia/HCA Master Retirement  
Trust and Gramercy Emerging  
Markets Fund,  
Plaintiffs/Judgment Creditors-  
Appellants,

-and-

Warner Mansion Fund,  
Plaintiff/Judgment Creditor,

M-3358  
Index No. 603315/02

-against-

APP International Finance Company,  
B.V., P.T. Lontar Papyrus Pulp &  
Paper Industry, Asia Pulp & Paper  
Company Ltd. and Indah Kiat International  
Finance Company B.V.,  
Defendants/Judgment Debtors,

-and-

P.T. Indah Kiat Pulp & Paper Corporation,  
Defendant/Judgment Debtor-Respondent,

-and-

ABN Amro Bank N.V., DBS Bank Ltd., and  
White & Case LLP,  
Non-Party Respondents.

-----X

Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about February 15, 2005 (mot. seq. no. 018),

Now, upon reading and filing the papers with respect to the motion, including the stipulation of the parties 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 October 4, 2010 for the December 2010 Term, in accordance with the aforesaid stipulation, with no further enlargements to be granted. (See M-3356 and M-3357, decided simultaneously herewith).

ENTER:

A handwritten signature in cursive script that reads "David Apolony". The signature is written in dark ink and is positioned to the right of the word "ENTER:". The signature is written over a faint horizontal line.

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 August 24, 2010.

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

-----X  
In the Matter of the  
Arbitration Between

Amy Levenson,  
Plaintiff-Appellant,

-against-

M-3408  
Index No. 650525/08

Barclays Capital Inc.,  
Defendant-Respondent.  
-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about August 26, 2009 (mot. seq. no. 001),

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the January 2011 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 August 24, 2010.

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

-----X  
WP 760 Market Street, LLC,  
Plaintiff-Respondent-Appellant,

-against-

M-3276  
Index No. 600470/09

Thor 760M LLC,  
Defendant-Appellant-Respondent,

-and-

Chicago Title Insurance Company,  
Defendant.

-----X  
Defendant-appellant-respondent having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about May 28, 2010 (mot. seq. no. 002),

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

It is ordered that the motion is granted on condition defendant-appellant Thor 760M LLC perfect its direct appeal on or before October 4, 2010 for the December 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 August 24, 2010.

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

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

Liping Xu,  
Petitioner,

-against-

M-3363  
Index No. 117175/09

Xincon Home-Healthcare, Inc.,  
Respondent-Appellant.

-----X

Respondent-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about June 21, 2010 (mot. seq. no. 002),

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

It is ordered that the motion is 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 August 24, 2010.

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

-----X  
Jude Bernard,  
Plaintiff-Appellant,

-against-

M-3355  
Index No. 302896/07

Herbert J. DeGraffe, Jr., as Trustee of  
the Ethel Smith 2003 Trust Agreement,  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about June 7, 2010,

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

It is ordered that the motion is denied, and the interim relief granted by an order of a Justice of this Court, dated June 30, 2010, is hereby vacated.

ENTER



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

PRESENT - Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Dianne T. Renwick  
Sheila Abdus-Salaam, Justices.

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

Kalihil El Bey,  
Petitioner-Appellant,

For an Order Pursuant to Article 78  
of the Civil Practice Law and Rules,

M-3407  
Index No. 401066/09

-against-

New York City Housing Authority,  
Respondent-Respondent.

-----X

An order of this Court having been entered June 10, 2010 (M-2202) denying petitioner-appellant leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about January 14, 2010 (mot. seq. no. 001), and dismissing said appeal as untimely taken,

And, petitioner-appellant having moved to restore the aforesaid appeal to the calendar,

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 August 24, 2010.

Present: Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Diane T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X  
Isidro Abascal,

Plaintiff-Appellant,

-against-

City of New York,

Defendant-Respondent.  
-----X

M-3096  
Index No. 401171/06

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 13, 2009 (mot. seq. no. 004),

And plaintiff-appellant having moved for an order holding the Clerk of the Supreme Court, New York County, and certain court reporters, in contempt for not having transcribed the minutes of proceedings in Supreme 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 denied, as moot, the minutes having been transcribed and the transcripts having been filed with the Clerk of this Court. Appellant is directed to perfect the appeal to on or before November 8, 2010 for the January 2011 Term. The Clerk is directed to make said transcripts available to appellant for reproduction.

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 August 24, 2010.

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

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

Respondent,

-against-

Anonymous,

Defendant-Appellant.  
-----X

SEALED  
M-3262  
Ind. No. 3071/03

Defendant-appellant having moved for an order granting movant anonymity in connection with an appeal from the order of the Supreme Court, New York County, entered on or about December 15, 2009, denying resentence, designating the case as *People v Anonymous*, and sealing the record on appeal, including the minutes of the proceedings and the appellate briefs and motions, and other 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 that the record on appeal and brief are sealed. The Clerk is directed to calendar the appeal under *People v Anonymous*.

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 August 24, 2010.

PRESENT: Hon. Eugene Nardelli, Justice Presiding,  
James M. Catterson  
John T. Buckley  
Karla Moskowitz  
Dianne T. Renwick, Justices.

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

-against-

M-2051  
Ind. No. 1516/03

Bryant Patterson,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on June 12, 2007 (Appeal No. 1293), unanimously affirming a judgment of the Supreme Court, New York County (Richard D. Carruthers, J.), rendered on February 25, 2005,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate 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 said application 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 August 24, 2010.

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

-----X  
IDX Capital LLC, James Cawley, Helen  
Cawley, James Cawley, Sr., Brady Halper,  
Ron Neal, Bhanu Patel and Starlight  
Investments, Ltd.,  
Plaintiffs-Respondents,

M-3590

M-3601

-against-

Index No. 102806/07

Phoenix Partners Group LLC, Phoenix  
Partners Group LP, Nicholas Stephan,  
Marcos Brodsky and Patrick Nihan,  
Defendants-Appellants,

Wesley Wang,  
Defendant-Appellant,

Interdealer Information Technologies,  
LLC, Jason Horowitz and Terence Solomone,  
Defendants.

-----X

Separate appeals having been taken from the order of the Supreme Court, New York County, entered on or about June 8, 2010,

And defendants-appellants Phoenix Partners Group LLC and Phoenix Partners Group LP having moved (M-3590) for a preference in the hearing of their appeal of the aforesaid order,

And defendant-appellant Wesley Wang having moved (M-3601) for the same relief,

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 (M-3590/M-3601) are granted to the extent of directing the Clerk to calendar the appeals for hearing together in the September 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 August 24, 2010.

PRESENT - Hon. Leland G. DeGrasse, Justice Presiding  
Helen E. Freedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam  
Nelson S. Román, Justices

-----X  
In the Matter of the Application of  
Teng K Inc., doing business as Via  
Dei Mille,  
Petitioner,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-3571  
Index No. 109128/10

New York State Liquor Authority,  
Respondent.

-----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 July 12, 2010, to review a determination of respondent,

And petitioner having moved for a stay of the revocation of the subject liquor license pending hearing and determination of the Article 78 proceeding,

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

It is ordered that the motion is granted on condition the proceeding is perfected on or before October 4, 2010 for the December 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 August 24, 2010.

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

-----X  
CWCapital Asset Management LLC, etc.,  
Plaintiff-Respondent,

-against-

M-3686  
Index No. 117469/09

Charney-FPG 114 41<sup>st</sup> Street, LLC,  
Defendant-Appellant,

Ibex Construction Company, LLC,  
et al.,  
Defendants.

-----X  
Defendant-appellant having moved for a stay of the order of the Supreme Court, New York County, entered on or about July 16, 2010, pending hearing and determination of the appeal taken therefrom,

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

It is ordered that the motion is 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 August 24, 2010.

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

-----x  
Rezu Enterprises, Inc., doing business  
as Coffee Beanery, et al.,

Plaintiffs-Appellants,

-against-

M-3782  
Index No. 650156/09

Altaf Isani, et al.,

Defendants-Respondents.  
-----x

Plaintiffs-appellants having moved for a stay of all proceedings pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about July 14, 2010,

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

It is ordered that the motion is denied.

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 August 24, 2010.

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

-----x  
Morrison Cohen LLP,

Plaintiff-Respondent,

-against-

M-3913  
Index No. 104100/09

David Fink,

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 7, 2010 (mot. seq. no. 001) and from the judgment of said Court entered on or about January 12, 2010,

And defendant-appellant having moved for adjournment 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 granted to the extent of adjourning the appeal to the October 2010 Term, and the motion is otherwise denied.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----X  
In the Matter of the Rehabilitation of  
Professional Liability Insurance  
Company of America.

Brent D. Cassity, et al.,  
Movants-Appellants,

M-3857  
Index No. 400986/10

-against-

James J. Wrynn, etc.,  
Respondent-Respondent.

-----X  
An appeal having been taken to this Court from an order of the Supreme Court, New York County, entered on or about July 13, 2010,

And movants-appellants having moved for an order in the nature of a preliminary appellate injunction pursuant to CPLR 5518 enjoining respondent-respondent from terminating the insurance underwriting business of Professional Liability Insurance Company of America (PLICA) or taking any action resulting in the loss or suspension of PLICA's insurance licenses, pending hearing and determination of the appeal taken therefrom,

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

It is ordered that the motion is denied.

ENTER:

  
Clerk.

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

BEFORE: Hon. DAVID FRIEDMAN  
Justice of the Appellate Division

-----X

The People of the State of New York,  
Respondent,

M-2635  
Ind. No. 5482/02

-against-

CERTIFICATE  
GRANTING LEAVE

Jamal Wilson,  
Defendant-Appellant.

-----X

I, DAVID FRIEDMAN, a Justice of the Appellate Division, First Judicial Department, do hereby certify that in the proceedings herein questions of law or fact are involved which ought to be reviewed by the Appellate Division, First Judicial Department, and, pursuant to Section 460.15 of the Criminal Procedure Law, permission is hereby granted to the above-named defendant to appeal to the Appellate Division, First Judicial Department, from the Order of the Supreme Court, Bronx County, entered on or about March 8, 2010.<sup>1</sup>

Dated: New York, New York  
July 29, 2010

**ENTERED AUG 24 2010**

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

NOTICE: Within 15 days from the date hereon, an appeal must be taken, and this certificate must be filed with the notice of appeal. An appeal is taken by filing, in the Clerk's office of the criminal court in which the order sought to be appealed was rendered, a written notice in duplicate that appellant appeals to the Appellate Division, First Judicial Department (Section 460.10, subd. 4, CPL), together with proof that another copy of the notice of appeal has been served upon opposing counsel. The appeal (or consolidated appeals; see footnote) must be argued within 120 days from the date of the notice of appeal, unless the time to perfect the appeal(s) is enlarged by the court or a justice thereof.

---

<sup>1</sup>In the event defendant has an existing (direct) appeal from a judgment, such appeal shall be consolidated with the appeal from the aforesaid order; and any poor person relief granted with respect to the appeal from the judgment shall be extended to cover the appeals so consolidated.

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

BEFORE: Hon. DAVID FRIEDMAN  
Justice of the Appellate Division

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

Respondent,

-against-

Mario Carvajal,  
Defendant-Appellant.

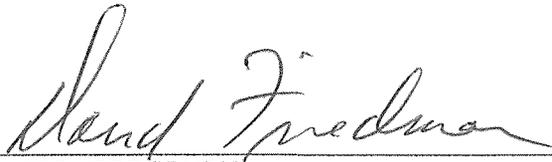
-----X

M-2780  
Ind. No. 2185/07

CERTIFICATE DENYING  
LEAVE

I, DAVID FRIEDMAN, a Justice of the Appellate Division, Supreme Court, First Department, do hereby certify that, upon application made by the above-named appellant for a certificate pursuant to CPL 460.20, and upon the record and proceedings herein,<sup>1</sup> there is no question of law presented which ought to be reviewed by the Court of Appeals and permission to appeal is hereby denied.

Dated: New York, New York  
July 29, 2010

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

**ENTERED AUG 24 2010**

<sup>1</sup>Description of Order:  
Order of Supreme Court, Appellate Division, First Department, entered December 3, 2009, affirming judgment of Supreme Court, New York County, rendered June 25, 2008.

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,  
Respondent,

M-2164  
Ind. Nos. 4970/85,  
1675/86, 2172/86

-against-

CERTIFICATE  
DENYING LEAVE

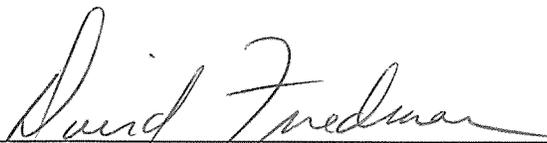
Roberto Roman a/k/a Robert Roman,  
Defendant-Appellant.

-----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, Bronx County, entered  
on or about December 10, 2009, is hereby denied. To the extent  
that defendant seeks poor person relief and assignment of  
counsel, that motion is hereby denied as academic.

Dated: New York, New York  
July 29, 2010

**ENTERED AUG 24 2010**

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

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,  
Respondent,

M-1939  
Ind. No. 1339/86

-against-

CERTIFICATE  
DENYING RENEWAL/  
REARGUMENT/  
RECONSIDERATION

Ricardo Padro a/k/a Frank Padro,  
Defendant-Appellant.

-----X

I, DAVID FRIEDMAN, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application made by the above-named defendant for renewal or reargument of the Order of this Court, entered August 4, 2009 (David Friedman, J.) (M-1058), denying defendant's application for a certificate pursuant to Criminal Procedure Law, section 460.15, for leave to appeal to this Court from the Order of the Supreme Court, Bronx County, entered on or about December 18, 2008, and upon the record and proceedings herein, no question of law or fact presented was overlooked or misapprehended in the consideration of the prior application, and the application for renewal or reargument of the aforesaid Order of this Court, entered August 4, 2009, is hereby denied. To the extent that defendant seeks poor person relief and assignment of counsel, that motion is hereby denied as academic.

Dated: New York, New York  
July 29, 2010

ENTERED AUG 24 2010

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

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-2252  
Ind. No. 2274/93

-against-

Angel Serrano,  
Defendant.

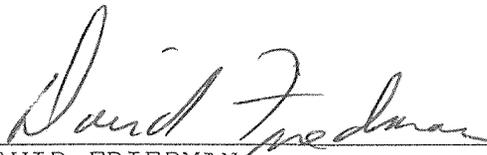
CERTIFICATE  
DENYING RENEWAL/  
REARGUMENT/  
RECONSIDERATION

-----X

I, DAVID FRIEDMAN, a Justice of the Appellate Division,  
First Judicial Department, do hereby certify that, upon  
application made by the above-named defendant for renewal or  
reargument of the Order of this Court, entered February 21, 2008  
(Jonathan Lippman, P.J.) (M-408), denying defendant's application  
for a certificate pursuant to Criminal Procedure Law, section  
460.15, for leave to appeal to this Court from the Order of the  
Supreme Court, New York County, entered on or about August 15,  
2007, and upon the record and proceedings herein, no question of  
law or fact presented was overlooked or misapprehended in the  
consideration of the prior application, and the application for  
renewal or reargument of the aforesaid Order of this Court,  
entered February 21, 2008, is hereby denied.

Dated: New York, New York  
July 29, 2010

ENTERED AUG 24 2010

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

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

BEFORE: Hon. Eugene L. Nardelli  
Justice of the Appellate Division

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

M-3381  
Ind. No. 70/06

-against-

CERTIFICATE  
GRANTING LEAVE TO APPEAL  
TO THE COURT OF APPEALS

Benito Acevedo,  
Defendant.

-----x

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

ORDERED that permission hereby is granted to appeal to the Court of Appeals.



\_\_\_\_\_  
Justice of the Appellate Division

Dated: **AUG 24**, 2010  
New York, New York

ENTERED: **AUG 24 2010**

\*Description of Order:

Supreme Court, New York County, entered on February 26, 2009.  
App. Div., Appeal No. 1671, Revd on May 25, 2010.

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

CORRECTED ORDER - November 17, 2010

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

BEFORE: Hon. Eugene L. Nardelli,  
Associate Justice of the Appellate Division

-----X  
In the Matter of the Application of  
Theresa Odems,  
Petitioner-Respondent,

For a Judgment, etc.,

M-2838

-against-

Index No. 400637/09

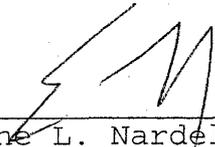
The New York City Department of  
Education; Joel Klein, as Chancellor  
of the New York City Department of  
Education,  
Respondents-Appellants.

-----X

Respondents having moved, pursuant to CPLR Section 5701(c),  
for leave to appeal to this Court from the order of the Supreme  
Court, New York County, entered on or about January 25, 2010,

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

It is ordered that the motion is granted.

  
\_\_\_\_\_  
Hon. Eugene L. Nardelli  
Associate Justice

Dated: July 9, 2010  
New York, New York

Entered: **AUG 24 2010**

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

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

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

M-3611  
Ind. No. 5509/80

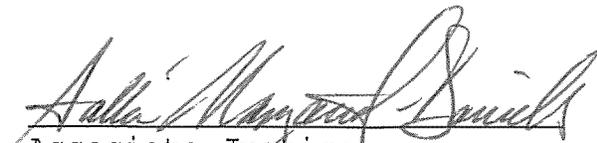
-against-

CERTIFICATE  
DENYING LEAVE

Victor Gonzalez,

Defendant.  
-----X

I, Sallie Manzanet-Daniels, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County (Daniel P. FitzGerald, J.), entered on or about March 12, 2010 is hereby denied. In light of the above, defendant's request for poor person relief and appointment of counsel is moot.

  
Associate Justice

Dated: August 6, 2010  
New York, New York

ENTERED: **AUG 24 2010**

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

AUG 24 2010

Peter Tom, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Eugene Nardelli  
Sheila Abdus-Salaam, Justices.

-----x

In the Matter of Nilda M. de los Santos  
(admitted as Nilda Maria de los Santos),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-336  
for the First Judicial Department,  
Petitioner,

Nilda M. de los Santos,  
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Nilda M. de los Santos, was admitted to the Bar  
of the State of New York at a Term of the Appellate Division  
of the Supreme Court for the First Judicial Department on  
March 4, 1985.

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

Respondent pro se.

M-336 (February 16, 2010)

In the Matter of Nilda M. De Los Santos, An Attorney

Per Curiam

Respondent Nilda M. de los Santos was admitted to the practice of law in the State of New York by the First Judicial Department on March 4, 1985, as Nilda Maria de los Santos. At all times relevant to this proceeding, she has maintained a law practice within this Department. Respondent has been delinquent in her attorney registration with the Office of Court Administration since 2007. Pro se, she has not appeared in response to the petition.

On April 30, 2009, the Disciplinary Committee filed formal charges alleging 18 violations of the Code based on the complaints of six clients. The charges alleged that respondent violated DR 1-102(A)(4) (four counts), DR 1-102(A)(5), DR 1-102(A)(7), DR 2-110(A)(1) (two counts), DR 2-110(A)(3) (five counts), DR 6-101(A)(3) (five counts), by, *inter alia*, neglecting five clients' divorce matters, falsely stating to a complainant that she had filed papers with the court on his case, falsely promising a complainant that she would complete his matter, falsely promising two complainants that she would return their unearned fees, and for failing to cooperate with the Committee. Respondent did not formally answer the charges, but admitted them at the hearing, explaining that the events occurred while she was

suffering from untreated mental health problems.

A Referee held a hearing and by a report dated September 8, 2009, sustained all charges and recommended an 18-month suspension with certain conditions before reinstatement. It was noted that respondent had submitted character letters from two attorneys who knew her from the 18B Panel, but that in aggravation, the Committee had introduced a Letter of Admonition, dated August 10, 2005, which arose from the neglect of a client matter in 2003, when respondent became overwhelmed with her practice and the case "fell beneath the cracks."

The Hearing Panel confirmed the Referee's findings of fact and conclusions of law and the recommended 18-month suspension with conditioned reinstatement, noting that respondent had acknowledged that an 18-month suspension would be appropriate under the circumstances.

The Committee seeks an order confirming the findings of fact, conclusions of law and recommendations of the Referee and the Hearing Panel.

We confirm the Referee and the Hearing Panel's findings of fact and conclusions of law and the recommended sanction of eighteen months suspension as amply supported by the record, which includes respondent's admissions. Respondent's misconduct of neglecting six divorce matters, failing to return unearned fees, lying to clients to conceal her neglect, and failing to

fully cooperate with the Committee, coupled with her Letter of Admonition, warrants an 18-month suspension(see generally *Matter of Benick*, 293 AD2d 176 [2002]; *Matter of Leavitt*, 291 AD2d 37 [2002]). The determination of the Hearing Panel is disaffirmed to the extent it seeks to impose conditions upon respondent's application for reinstatement as presently unnecessary.

Accordingly, the Committee's petition is granted to the extent of suspending respondent from the practice of law for a period of 18 months.

All concur.

Order filed.

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

AUG 24 2010

Angela M. Mazzarelli, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Sheila Abdus-Salaam  
Nelson S. Román, Justices.

-----X

In the Matter of Franklin W. Topal  
(admitted as Franklin Wayne Topal),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee  
for the First Judicial Department,  
Petitioner,

M-485

Franklin W. Topal,  
Respondent.

-----X

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Franklin W. Topal, was admitted to the Bar of  
the State of New York at a Term of the Appellate Division of  
the Supreme Court for the Second Judicial Department on  
March 1, 1989.

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

Respondent pro se.

M-485 (February 25, 2010)

In the Matter of Franklin W. Topal, An Attorney

Per Curiam

Respondent Franklin W. Topal<sup>1</sup> was admitted to the practice of law in the State of New York by the Second Judicial Department on March 1, 1989, as Franklin Wayne Topal. At all times relevant to this proceeding, he listed his business address with the Office of Court Administration (OCA) within this Department.<sup>2</sup> Respondent is delinquent in his attorney registration for the 2009/10 biennial period.

In February 2009, the Disciplinary Committee filed formal charges against respondent based on five clients' complaints alleging 26 violations of the Code: DR 1-102(A)(4) (ten counts), DR 1-102(A)(5) (five counts), DR 1-102(A)(7), DR 2-106(D) (two counts), DR 2-110(A)(2), DR 5-105(A), DR 6-101(A)(3) (five counts), and DR 9-102(C)(4), by, *inter alia*, engaging in a pattern of neglect involving five personal injury matters over a 10-year period, deceiving clients and the Committee to conceal his neglect, falsely promising clients that he would work on their cases and failing to file written retainer statements with OCA. Respondent did not formally answer the charges, but

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<sup>1</sup> Respondent pro se has not appeared in this action.

<sup>2</sup> Respondent informed the Disciplinary Committee that he has been practicing law from his Suffern home since closing his business office in or about October 2007.

admitted the charges at the hearing.

The Referee held a hearing and by a report dated July 10, 2009, sustained all charges and recommended a four-year suspension. A Hearing Panel confirmed the Referee's report in its entirety. The Committee seeks an order confirming the findings of fact, conclusions of law, and recommendations of the Referee and Hearing Panel that respondent be suspended for four years.

The Referee's and Panel's findings of fact and conclusions of law are confirmed. Respondent has admitted to the misconduct. With respect to the sanction, respondent has indicated his embarrassment regarding his misconduct and has not attempted to justify his neglect or offer any evidence in mitigation.

Respondent's long-term pattern of misconduct in neglecting five personal injury matters resulting in the loss of three clients' claims to the applicable statute of limitations, lying to clients and the Committee to conceal his neglect, and failing to fully cooperate with the Committee, combined with the absence of any mitigating factors other than the lack of prior discipline, warrants a substantial suspension which is longer than the norm of six months to three years in cases of multiple neglect (*compare Matter of Alperin*, 66 AD3d 309 [2009] [two-year suspension for neglect of five matters aggravated by deception to conceal the neglect, with no prior disciplinary history]; *Matter*

*of O'Shea*, 25 AD3d 203 [2005] [two-year suspension for neglect of four matters, misrepresentations to clients, good reputation, psychological problems, and one prior Admonition]; *Matter of Gill*, 225 AD2d 170 [1996] [three-year suspension for neglect of two matters, repeated misrepresentations to clients, and creation of fictitious litigation papers]).

We conclude that a four-year suspension is warranted.

Accordingly, the Committee's petition is granted to the extent of confirming the findings of fact and conclusions of law of the Hearing Panel, and respondent is suspended from the practice of law for a period of four years and until further order of this Court.

All concur.

Order filed.

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

AUG 24 2010

Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Helen E. Freedman  
Nelson S. Román, Justices.

-----x

In the Matter of Kenneth P. Sirkin,  
an attorney and counselor-at-law:

Departmental Disciplinary Committee  
for the First Judicial Department,  
Petitioner,

M-1045

Kenneth P. Sirkin,  
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Kenneth P. Sirkin, was admitted to the Bar of  
the State of New York at a Term of the Appellate Division of  
the Supreme Court for the First Judicial Department on  
November 20, 2000.

Alan W. Friedberg, Chief Counsel, Departmental  
Disciplinary Committee, New York  
(Naomi F. Goldstein, of counsel), for petitioner.

No appearance for respondent.

IN THE MATTER OF KENNETH P. SIRKIN, AN ATTORNEY

PER CURIAM

Respondent Kenneth P. Sirkin was admitted to the practice of law in the State of New York by the First Judicial Department on November 20, 2000. In 1999 respondent was admitted to practice law in New Jersey and in 2002 he was admitted to practice law in Florida. At all times relevant to the misconduct which underlies this proceeding, respondent maintained an office for the practice of law in Florida. Respondent has not registered with the New York State Office of Court Administration (OCA) since 2001.

By complaint served upon respondent and dated November 26, 2008, the New Jersey District IIA Ethics Committee alleged that respondent violated multiple sections of New Jersey's Rules of Professional Conduct. The violations alleged stem from respondent's representation of a client in a personal injury action. Count I of the complaint alleged that respondent failed to keep his client apprised of all events and communications, failed to communicate with her for almost a year, failed to apprise her as to the location of settlement proceeds, failed to notify her of a pending motion, and failed to forward closing papers. It is alleged that respondent violated Rule 1.1 of the New Jersey Rules of Professional Conduct (RPC) which states that "[a] lawyer shall not...[e]xhibit a pattern of negligence or neglect in the lawyer's handling of legal matters generally..."

Counts II and III of the complaint, premised on the same facts as Count I, alleged that respondent violated RPC 1.3 which states that "[a] lawyer shall act with reasonable diligence and promptness in representing a client," and RPC 1.4 which states, in part, that "[a] lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information." Count IV of the complaint alleged that respondent, despite being given numerous opportunities, did not provide a copy of his file nor did he reply to the complaint made against him in violation of Rule 1:20-3 of the New Jersey Rules of Court requiring cooperation from an attorney who's the subject a disciplinary investigation. After being served with a copy of the complaint, respondent was sent a letter asking that he interpose an answer and advising him that the failure to do so would constitute an admission to the allegations in the complaint. On October 6, 2009, the Supreme Court of New Jersey, after respondent's failure to appear and after deeming all allegations in the complaint admitted, issued an order suspending him from the practice of law for three months and ordering him to pay costs and expenses incurred in the prosecution of the disciplinary proceeding.

On December 5, 2008, the Florida Bar served a complaint upon respondent alleging multiple violations of the Rules Regulating the Florida Bar. Count I of the complaint alleged that despite repeated requests both from a former client and her new attorney

asking respondent to turn over her, he failed to do so. It is alleged that respondent violated Rule 4-1.16(d) of the Rules Regulating the Florida Bar (RRFB) which states, in pertinent part that "[u]pon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests...surrendering papers and property to which the client is entitled..." Counts II, III, V and VII alleged that in connection with four separate complaints filed against respondent, the Florida Bar sent official inquiries to respondent requesting his written responses. However, respondent provided no responses to the inquiries nor to subsequent letters requesting compliance. It is alleged that respondent violated RRFB 4-8.4(g) which states in part that "[a] lawyer shall not fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency, as defined elsewhere in these rules, when bar counsel of the agency is conducting an investigation into the lawyer's conduct." Respondent, admitting the facts within the complaint, pled guilty to all the violations in the complaint and thereafter, on August 13, 2009, the Supreme Court of Florida ordered that respondent be suspended from the practice of law for ten days and that he pay costs totaling \$3,240.

The Departmental Disciplinary Committee (Committee) petitions this Court for an order pursuant to the doctrine of reciprocal discipline (22 NYCRR 603.3), on grounds that

respondent was disciplined for misconduct in both New Jersey and in Florida, disciplining and suspending respondent from the practice of law for a period of six months, or until such time as he complies with Judiciary Law § 468-a, whichever is longer. Noting that New Jersey imposed a three-month suspension, the longest sanction of the two proceedings, the Committee seeks to enhance respondent's sanction inasmuch as he has failed to register with OCA since 2001 as required by Judiciary Law § 468-a and because unlike the courts in both New Jersey and in Florida, this Court is unable to order him to pay a monetary sanction. The Committee served the petition upon respondent and he has failed to interpose any opposition or response. We agree that respondent should be disciplined but we disagree that the sanction should be a six month suspension.

Pursuant to 22 NYCRR 603.3(a), an attorney "who has been disciplined in a foreign jurisdiction, may be disciplined by this court because of the conduct which gave rise to the discipline in the foreign jurisdiction." Defenses to this disciplinary proceeding are limited to those enumerated in 22 NYCRR 603.3(c), (22 NYCRR 603.3[b]; *Matter of Stahl*, 72 AD3d 218, 226 [2010]; *Matter of Jarblum*, 51 AD3d 68, 70-71 [2008]; *Matter of Chang*, 57 AD3d 151, 154 [2008]; *Matter of Schlem*, 308 AD2d 220, 222 [2003]; *Matter of Bosies*, 217 AD2d 358, 360-361 [1995]), namely: (1) lack of notice and an opportunity to be heard in the foreign disciplinary proceeding; (2) an infirmity with the proof of

misconduct presented in the foreign proceeding; and (3) that the foreign misconduct upon which discipline is premised does not constitute misconduct in this jurisdiction (22 NYCRR 603.3[c]).

In reciprocal proceedings, we generally accord significant weight to the sanction imposed by the jurisdiction where the misconduct occurred because the foreign jurisdiction has the greatest interest in fashioning sanctions for misconduct perpetrated therein (*Stahl* at 227; *Jarblum* at 71; *Chang* at 156; *Schlem* at 222; *Bosies* at 362). Therefore, when the sanction prescribed by the foreign jurisdiction is not inconsistent with the sanction for similar misconduct in this jurisdiction, the Court should impose the same sanction (*Jarblum* at 71-72; *Matter of Dranov*, 14 AD3d 156, 163-164 [2004]). Deviation from the sanction imposed by the foreign jurisdiction is thus rare and warranted only where the sanction imposed by the foreign jurisdiction is at great variance with the sanction generally imposed by this jurisdiction for the same misconduct (*Matter of Lowell*, 14 AD3d 41, 48-49 [2004], *lv dismissed* 4 NY3d 846 [2005], *lv denied* 5 NY3d 708 [2005]).

With respect to the New Jersey proceeding, the record evinces that none of the enumerated defenses preclude resolution of the instant petition in the Committee's favor. Respondent was served with a copy of the complaint and was also sent a letter asking that he respond to the same thereby affording him an

opportunity to be heard (22 NYCRR 603.3[c][1]). Moreover, since respondent defaulted by failing to appear, he admitted all the allegations in the complaint which provides ample basis for the Supreme Court of New Jersey's conclusion that respondent violated the RPC (22 NYCRR 603.3[c][2]). Lastly, the misconduct for which respondent was disciplined constitutes misconduct in this state (22 NYCRR 603.3[c][3]). RPC 1.1, 1.3 and 1.4 not only mirror the language in our former Disciplinary Rules and current Rules of Professional Conduct (22 NYCRR 1200.3 and 22 NYCRR 1200.4), but conduct in violation of RPC 1.1 has already been deemed misconduct in this state under our then Disciplinary Rules (*Schlem* at 221-222 [violation of RPC 1.1 is violation of DR-6-101(a)(3)(22 NYCRR 1200.3[b])]; *Bosies* at 361). Additionally, the misconduct giving rise to a violation of Rule 1:20-3 of the New Jersey Rules of Professional Conduct, namely the failure to cooperate with a disciplinary investigation, is conduct prejudicial to the administration of justice, a violation of 22 NYCRR 1200.58(d) (*Matter of Racer*, 56 AD3d 125 [2008] [Court confirmed Referee's determination that in failing to cooperate with a disciplinary investigation, attorney violated DR 1-102(A)(5) (22 NYCRR 1200.58[d])]; *Matter of Sheehan*, 48 AD3d 163 [2007]; *Matter of Siegel*, 301 AD2d 157 [2002])).

With respect to the Florida proceeding, the record evinces that none of the enumerated defenses preclude the granting of the

Committee's petition. Since respondent actually pled guilty to the violations asserted, admitting all the allegations asserted against him, respondent cannot assert a due process violation nor was there any infirmity in the proof upon which the Supreme Court of Florida made its determination (22 NYCRR 603.3[c][1] and [2]). By ignoring repeated requests from his former client's new attorney and by failing to turn over his former client's file, respondent was found guilty of violating RRFB 4-1.16(d), whose language mirrors 22 NYCRR 1200.16(e). Similarly, in failing to respond to numerous official inquiries regarding the disciplinary investigations, respondent was found to have violated RRFB 4-8.4(g); such misconduct also constituting a violation of our former Disciplinary Rules and current Rules of Professional Conduct (22 NYCRR 1200.58[d]; *Matter of Racer*, 56 AD3d 125 *supra*; *Matter of Sheehan*, 48 AD3d 163 [2007]; *Matter of Siegel*, 301 AD2d 157 [2002]). Thus, the misconduct underlying the violations in the Florida proceeding constitute misconduct in this state (22 NYCRR 603.3[c][3]).

While the Committee seeks to enhance respondent's sanction by three months, we see no basis for departing from the well settled rule, that with rare exception, any sanction we impose be commensurate with the sanction imposed by the jurisdiction where the misconduct arose. Here, the Committee is not asking that we sanction respondent for his failure to register with OCA (Judiciary Law § 468-a), but is simply asking for an enhancement

on its petition for reciprocal discipline based on the same. Insofar as the Committee is free to take separate and appropriate action with regard to respondent's failure to register with OCA, and, in fact, has, enhancement on this ground is unwarranted. Enhancement is also unwarranted simply because we cannot issue monetary sanctions (22 NYCRR 605.5). Moreover, the three month suspension prescribed by New Jersey is in line with our precedent on the type of misconduct at issue (*Schlem* at 222 [three month suspension in reciprocal discipline proceeding where in addition to violating RPC 1.1, 1.3, 1.4, respondent also violated RPC 8.4 (misrepresentation) and 8.1 (failure to cooperate with the disciplinary investigation)]; *Siegel* at 161 (three month suspension for respondent's neglect of two client matters, his failure to cooperate with the Committee's investigation, and misrepresentation made to clients)).

Accordingly, the petition is granted to the extent of imposing reciprocal discipline and respondent is suspended from the practice of law for a period of three months.

All concur.

Order filed.

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 August 24, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
John W. Sweeny, Jr.  
James M. McGuire  
Leland G. DeGrasse, Justices.

-----X  
Anonymous,  
Plaintiff-Respondent,

-against-

M-1232  
Index No. 305392/08

Anonymous,  
Defendant-Appellant.  
-----X

A decision and order of this Court having been entered on June 11, 2009 (Appeal No. 5400N) modifying the order of the Supreme Court, New York County, entered on or about October 2, 2008,

And defendant-appellant having moved for an order amending the caption of this action and of the aforesaid decision and order of this Court entered on June 11, 2009 (Appeal No. 5400N), to reflect the parties as "Anonymous v Anonymous",

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.

ENTER:

Clerk.

PM ORDERS

ENTERED

AUGUST 17, 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 August 17, 2010.

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

-----x  
Richard Roach,

Plaintiff-Respondent,

-against-

Elizabeth Benjamin,

Defendant-Appellant.  
-----x

M-3825  
Index No. 100434/09

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about November 27, 2009 (mot. seq. no. 002),

And plaintiff-respondent having moved for an order enlarging the record on appeal to include Exhibits B, C, D, G and H to the moving papers,

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.

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 August 17, 2010.

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

-----x

Marcos Castellon, et al.,  
Plaintiffs-Respondents/Respondents,

-against-

M-3862

John Reinsberg, et al.,  
Defendants,

Index No. 7508/05

-and-

SMI Construction Management, Inc.,  
Defendant-Appellant/Respondent-  
Appellant.

- - - - -

SMI Construction Management, Inc.,  
Third-Party Plaintiff-Appellant/  
Respondent-Appellant,

-against-

Index No. 85164/06

Rose Demolition and Carting, Inc.,  
Third-Party Defendant/Appellant-  
Respondent.

- - - - -

[And a second third-party action]

-----x

An appeal having been taken to this Court by defendant/third-party plaintiff/second third-party defendant SMI Construction Management, Inc. from the order of the Supreme Court, Bronx County, entered on or about September 30, 2009,

And an appeal and cross appeal having been taken to this Court by third-party defendant Rose Demolition and Carting, Inc. and defendant/third-party plaintiff/second third-party defendant SMI Construction Management, Inc., respectively, from an order of said Court entered on or about April 13, 2010, respectively,

And defendant/third-party plaintiff/second third-party defendant SMI Construction Management, Inc. having moved for consolidation of the aforesaid appeals and cross 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 directing the Clerk to calendar the appeal and the appeal and cross appeal for hearing together in the November 2010 Term, to which Term the appeal and cross appeal are adjourned, and for which Term movant is directed to perfect its appeal and file in its cross appeal. The attention of the parties is directed to Rule 600.11(d) with respect to a joint record and costs thereof.

ENTER:

A handwritten signature in black ink, reading "David Apolony". The signature is written in a cursive, flowing style.

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 17, 2010.

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

-----x  
Laura Vasquez, et al.,

Plaintiffs-Appellants,

-against-

JRG Realty Corp., et al.,

Defendants-Respondents.  
-----x

M-3757  
Index No. 115513/07

Consolidated appeals having been taken to this Court from the judgment of the Supreme Court, New York County, entered on or about October 1, 2009, and from the order of said Court entered on or about November 25, 2009 (mot. seq. no. 003), respectively,

And plaintiffs-appellants having moved for an enlargement of time in which to perfect the consolidated appeals,

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

It is ordered that the motion is granted to the extent of enlarging the time to perfect the consolidated appeals to on or before September 7, 2010 for the November 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 August 17, 2010.

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

-----X  
Landmark West! Inc., 91 Central Park  
West Corporation and Thomas Hansen,  
Petitioners-Appellants,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-3591  
Index No.650354/08

City of New York Board of Standards  
and Appeals, New York City Planning  
Commission, Hon. Andrew Cuomo, as  
Attorney General of the State of New  
York and Congregation Shearith Israel,  
also described as the Trustees of  
Congregation Shearith Israel,  
Respondents-Respondents.

-----X

Petitioners-appellants having moved for, inter alia, an enlargement of time in which to perfect their appeal from the order of the Supreme Court, New York County, entered on or about October 6, 2009, to be heard on the same date as the appeal in *Kettaneh v NYC Board of Standards and Appeals* (NY Co. Ind. No. 113227/08),

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 December 2010 Term. The motion is otherwise denied, with leave to renew, only as to the request to calendar the appeals for hearing together upon perfection of said appeals.

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 August 17, 2010.

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

-----x  
In the Matter of a Probate Proceeding,  
Will of

M-3594

Rocky H. Aoki, also known as  
Hiroaki Aoki,  
Deceased.

Surrogate's Court  
File No. 2604-2008

- - - - -  
Keiko Ono Aoki,  
Petitioner-Respondent,

Kana Aoki Nootenboom, Kevin Aoki,  
Echo Aoki and Kyle Aoki,  
Objectants-Appellants.

-----x

An appeal having been taken to this Court from the order of the Surrogate's Court, New York County, entered on or about December 28, 2009, and so modified by the order of said Court entered on or about February 2, 2010,

And petitioner-respondent having moved for an order enlarging the record on appeal, and for related relief,

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

It is ordered that the motion is denied.

ENTER:



Clerk

PM ORDERS

ENTERED

AUGUST 24, 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 August 24, 2010.

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

-----x  
WHG CS, LLC and WHG SUB CS, LLC,

Plaintiffs-Appellants,

-against-

M-3898

Index No. 650788/10

LSREF Summer REO Trust 2009, et al.,

Defendants-Respondents.  
-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about August 2, 2010,

And plaintiffs-appellants having moved, inter alia, for a preliminary appellate injunction and for preference in hearing of the appeal,

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

It is ordered that the motion is granted on condition the appeal is perfected for the November 2010 Term, with special dates. The record and brief are to be served and filed on or before September 21, 2010, the respondents' brief to be served and filed on or before October 20, 2010, and the reply brief, if any, to be served and filed on or before October 29, 2010. The Clerk is directed to calendar the appeal for hearing in the first week of the November 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 August 24, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Eugene Nardelli  
James M. Catterson, Justices.

-----x  
W&W Glass, LLC,  
Plaintiff-Respondent,

-against-

1113 York Avenue Realty Company LLC, M-3900  
et al., Index No. 101723/09  
Defendants-Appellants,

-and-

Pacific Lawn Sprinklers, et al.,  
Defendants.

-----x

Appeals having been taken to this Court from the order of the Supreme Court, New York County, entered on or about June 18, 2010, and the judgment of said Court entered on or about June 29, 2010,

And defendants-appellants having moved for a stay of enforcement of a money judgment and foreclosure order pending hearing and determination of the aforesaid appeals,

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

It is ordered that the motion is granted on condition the appeals are perfected for the November 2010 Term, with special dates. The record and brief are to be served and filed on or before September 21, 2010, the respondent's brief to be served and filed on or before October 20, 2010, and the reply brief, if any, to be served and filed on or before October 29, 2010. The undertaking by deposit with the New York County Clerk and Clerk of the Supreme Court, evidenced by receipt therefrom filed on August 2, 2010, by the appellant is deemed payable if the

judgment or order appealed from or any part of either is affirmed, or the appeal dismissed, pursuant to the terms of the order and/or judgment appealed from (CPLR 5519 [a][2]).

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive style with a large, sweeping initial "D".

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 August 24, 2010.

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

-----X  
Luis Molina, Jr.,  
Plaintiff-Appellant,

-against-

M-3401  
Index No. 22270/05

L.A. Taxi, Inc. and Imran Pervez,  
Defendants-Respondents.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about October 9, 2009,

And counsel for defendant(s)' insurer having moved inter alia, to be appointed as insurer-retained counsel for defendants-respondents, or for the appointment of some other firm to be chosen by defendants-respondents other than present counsel, for a stay of enforcement of the order of this Court entered April 29, 2010 (M-819/M-1139) pending hearing and determination of the aforesaid appeal and for related relief,

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

Ordered that the motion is granted to the extent of permitting the insurer to appoint counsel for the insureds other than D'Amato & Lynch LLP or any other counsel serving on the Board of insurer or having any financial or business interest in insurer, after advising the insured of their right to retain counsel, including John J. Hession, Esq., if so advised, at their own expense. Additional respondents' brief to be served and filed on or before October 6, 2010 for the November 2010 Term, to which Term the appeal is adjourned and the stay of re-trial previously granted is continued.

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 August 24, 2010.

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

-----x

Richard DeSilva, Jr., et al.,  
Plaintiffs-Appellants,

M-3564

-against-

Action No. 1  
Index No. 108951/04

Plot Realty LLC,  
Defendants-Respondents.

- - - - -

Plot Realty LLC, et al.,  
Plaintiffs-Respondents,

-against-

Action No. 2  
Index No. 601976/06

Richard DeSilva, Jr., et al.,  
Defendants-Appellants.

- - - - -

Liberty Mutual Property, etc.,  
Plaintiff-Respondent,

-against-

Action No. 3  
Index No. 42983/05

Nathanson Consulting Corp., et al.,  
Defendants-Respondents.

-----x

Separate appeals having been taken to this Court from the order of the Supreme Court, New York County, entered on or about January 18, 2010 (Action No. 1/Index No. 108951/04) and from the order of said Court entered on or about February 4, 2010 (Action No. 2/Index No. 601976/06), respectively,

And appellants having moved for a stay of all proceedings pending hearing and determination of the aforesaid appeals,

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

It is ordered that the motion is granted to the extent of staying trial pending hearing and determination of the aforesaid appeals, which appellants are directed to perfect for the December 2010 Term. The motion is otherwise denied.

ENTER:

A handwritten signature in black ink, reading "David Apobony". The signature is written in a cursive style with a large, stylized initial "D".

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 August 24, 2010.

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

-----x  
Jacob Ahroner,  
Plaintiff-Appellant-Respondent/  
Appellant,

-against-

M-3835  
Index No. 602192/03

Israel Discount Bank of New York,  
et al.,  
Defendants-Respondents-Appellants/  
Respondent.  
-----x

An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about July 13, 2009 (mot. seq. nos. 017, 018),

And an appeal having been taken to this Court by plaintiff from the order of said Court entered on or about March 10, 2010 (mot. seq. no. 021),

And plaintiff having moved for preference in hearing of the previously consolidated appeals and cross 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 consolidated appeals and cross appeal for hearing in the September 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 August 24, 2010.

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

-----x  
Hoffinger Stern & Ross, LLP,  
Plaintiff-Respondent,

-against-

M-3849

Index No. 113111/09

Philip Neuman,  
Defendant-Appellant,

Neuman Associates, LLC, et al.,  
Defendants.

-----x

An appeal having been taken to this Court by defendant Philip Neuman from the judgment of the Supreme Court, New York County, entered on or about May 11, 2010, and said appeal having been perfected,

And defendant-appellant Philip Neuman having moved for a stay of the judgment pending hearing and determination of the aforesaid appeal,

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

It is ordered that the motion is denied.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on August 24, 2010.

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

-----x

Romona Tapia, et al.,  
Plaintiffs-Respondents,

M-3878

-against-

Successful Management Corp., et al.,  
Defendants-Appellants,

Action No. 1  
Index No. 400563/08

-and-

600 ACAD LLC, doing business as Royal  
Mercury Holdings, LLC, et al.,  
Defendants,

City of New York, et al.,  
Intervenors-Appellants.

-----

Vladimir Dreytser, et al.,  
Plaintiffs-Respondents,

-and-

Rosa Carreras, et al.,  
Intervenor-Plaintiffs,

-against-

Action No. 2  
Index No. 401140/08

195 Realty LLC, et al.,  
Defendants,

-and-

West 187<sup>th</sup> Street Properties, Inc.,  
et al.,  
Defendants-Appellants,

-and-

513 Properties Inc., et al.,  
Intervenor-Defendants,

City of New York, et al.,  
Intervenors-Appellants.

-----x

Appeals having been taken to this Court from the consolidated order of the Supreme Court, New York County, entered on or about August 12, 2009, and from the order of said Court entered on or about January 29, 2010,

And the City of New York and the New York City Council having moved, inter alia, for leave to intervene on the appeal(s),

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 pursuant to CPLR 1012(b)(2).

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive, flowing style with a prominent initial "D".

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 August 24, 2010.

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

-----x  
Invar International, Inc., et al.,

Petitioners-Respondents,

-against-

M-3915  
Index No. 650628/10

Zorlu Enerji Elektrik Üretim Anonim  
Şirketi,

Respondent-Appellant.  
-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about July 23, 2010, and said appeal having been perfected,

And respondent-appellant having moved for a stay of enforcement of the order 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

Appeals having been taken to this Court from the consolidated order of the Supreme Court, New York County, entered on or about August 12, 2009, and from the order of said Court entered on or about January 29, 2010,

And the City of New York and the New York City Council having moved, inter alia, for leave to intervene on the appeal(s),

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 pursuant to CPLR 1012(b)(2).

ENTER:

A handwritten signature in black ink, reading "David Apolony". The signature is written in a cursive, flowing style with a prominent initial "D".

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 August 24, 2010.

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

-----x  
In the Matter of Certain Controversies  
Between

Social Service Employees Union,  
Local 371, on behalf of its member,  
Bowana Robinson,  
Petitioner-Respondent,

M-3687  
Index No. 114870/08

-against-

City of New York, etc.,  
Respondent-Appellant.

-----x

Respondent-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about May 18, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the November 2010 Term, with no further enlargements to be granted.

ENTER:



Clerk