

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

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

Respondent,

-against-

Freddy Lasso,

M-4843  
DC #21  
Ind. No. 9665/94

Defendant-Appellant.  
-----X

An appeal having been taken to this Court by defendant from the judgment of resentence of the Supreme Court, New York County, rendered on or about December 8, 2006,

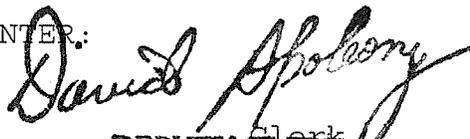
And said appeal having not been brought on for hearing pursuant to the provisions of the Rules of Practice of the Appellate Division, First department,

And a calendar call having been held by the Clerk of the Court on October 29, 2009, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

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

Ordered that appellant's time in which to perfect the appeal is enlarged to the June 2010 Term of this Court and counsel is directed to so perfect.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 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-4813  
DC #6  
Eddie Badia, Ind. No. 7034/04  
  
Defendant-Appellant.

-----X

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about November 2, 2006,

And said appeal having not been brought on for hearing pursuant to the provisions of the Rules of Practice of the Appellate Division, First department,

And a calendar call having been held by the Clerk of the Court on October 29, 2009, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

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

Ordered that appellant's time in which to perfect the appeal is enlarged to the June 2010 Term of this Court and counsel is directed to so perfect.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

-----X  
Charles Rochester,  
Plaintiff-Appellant,

-against-

M-4762A  
Index No. 340931/07

John Mattingly, Commissioner of  
Administration for Children's  
Services, et al.,  
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about September 4, 2008,

And respondents having moved to dismiss the appeal upon plaintiff's failure to prosecute,

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

It is ordered that the appeal is dismissed. The order of this Court entered on December 22, 2009 (M-4762) is hereby recalled and vacated.

ENTER   
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
David Friedman  
James M. McGuire  
Rolando T. Acosta, Justices.

-----X  
Kristina Teichman, also known as  
Kristina Bohmova,

Plaintiff,

-against-

M-5587  
Index No. 310316/06

Boris Teichman,

Defendant.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 31, 2008 (mot. seq. no. 008),

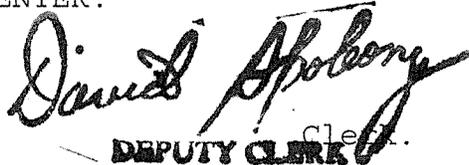
And an order of this Court having been entered on December 17, 2009 (M-5427), withdrawing defendant's appeal in accordance with the stipulation of the parties, filed November 30, 2009,

And defendant having moved to stay or adjourn the withdrawal 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:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
David B. Saxe  
John W. Sweeny, Jr.  
Dianne T. Renwick, Justices.

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

-against-

M-5549  
Ind. No. 2232/09

Danielle Rosario,  
Defendant-Appellant.

-----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 September 17, 2009, for leave to prosecute the appeal as a poor person, upon the original record and upon a reproduced appellant's brief, 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 only to the extent of deeming the moving papers a timely filed notice of appeal.

The motion, insofar as it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101(a), setting forth facts sufficient to establish that defendant has no funds or assets with which to prosecute the appeal.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
David B. Saxe  
John W. Sweeny, Jr.  
Dianne T. Renwick, Justices.

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

Respondent,

-against-

M-5544  
Ind. No. 294/08

Donald Perrington,

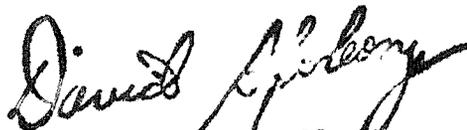
Defendant-Appellant.  
-----x

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 September 16, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for other relief,

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

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

ENTER:

  
DEPUTY CLERK.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
David B. Saxe  
John W. Sweeny, Jr.  
Dianne T. Renwick, Justices.

-----X  
In the Matter of

Brandon R.,

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

-----  
Commissioner of Social Services of  
the City of New York,  
Petitioners-Respondents,

M-5682  
Docket No. NN-10009/07

Chrystal R.,  
Respondent-Appellant.

-----  
Lawyers for Children,  
Law Guardian for the Child.

-----X

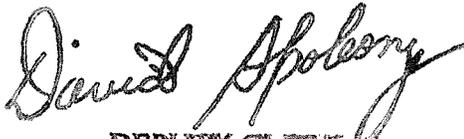
Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from the order of the Family Court, New York County, entered on or about November 4, 2009, for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Jay Maller, Esq., 30 Vesey Street #1803, New York, NY 10007, Telephone No. (212)732-4818, 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:

  
DEPUTY CLERK

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

PRESENT - Hon: Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
David B. Saxe  
John W. Sweeny, Jr.  
Dianne T. Renwick, Justices.

-----X  
In the Matter of the Application of  
Stahl York Avenue Company LLC,  
Petitioner-Appellant,

For a Judgment Pursuant to  
Article 78 of the CPLR,

-against-

M-5589  
Index No. 107666/07

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

-----  
The Municipal Art Society of New York,  
The Friends of the Upper East Side  
Historic Districts and Council Member  
Jessica Lapin,  
Amicus Curiae.

-----X  
An appeal having been taken from the order of the Supreme Court, New York County, entered on or about September 24, 2008,

And The Municipal Art Society of New York, The Friends of the Upper East Side Historic Districts and Council Member Jessica Lapin having moved for leave to file a brief amicus curiae with respect to the aforesaid appeal,

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

It is ordered that the motion is granted and the briefs submitted with the moving papers herein are deemed filed.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
David B. Saxe  
John W. Sweeny, Jr.  
Dianne T. Renwick, Justices.

-----X  
Benjamin J. Golub,  
Plaintiff-Appellant,

-against-

M-5638  
Index No. 602879/08

Board of Managers of Greentree at  
Murray Hill,  
Defendant-Respondent.

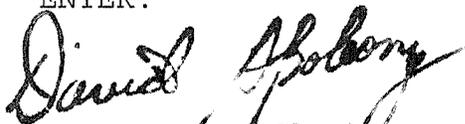
-----X

Plaintiff-appellant having moved for a stay of arbitration pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about March 11, 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 denied.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
John T. Buckley  
James M. Catterson  
James M. McGuire  
Dianne T. Renwick, Justices.

-----x  
Acadia-P/A 161<sup>st</sup> Street LLC,  
Plaintiff-Respondent-Appellant,

-against-

Proskauer Rose LLP and Ronald D.  
Sernau,  
Defendants-Appellants-Respondents,

M-5707  
Index No. 102663/07

-and-

Marisa D. Levinson,  
Defendant.

- - - - -  
Proskauer Rose LLP,  
Third-Party Plaintiff-Appellant-  
Respondent,

-against-

Index No. 590480/07

Acadia Realty Trust, P/A Associates  
LLC and Acadia-P/A Holding Company LLC,  
Third-Party Defendants-Respondents-  
Appellants.  
-----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 November 13, 2007, and from the order of said Court entered on or about September 17, 2009,

And defendants having moved for a stay of trial pending determination of the appeal and cross appeal from the order entered on or about November 13, 2007, presently sub judice,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties filed January 11, 2010, and due deliberation having been had thereon,

It is ordered that the motion is dismissed as academic, the underlying appeal(s) and cross appeal(s) having been withdrawn. (See Appeal No. 469, decided simultaneously herewith.)

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----x  
Founders Insurance Company Limited,  
Petitioner-Respondent,

-against-

M-5710  
Index No. 600523/07

Everest National Insurance Company, an  
Arizona Corporation, and Everest  
Reinsurance Company, a Delaware  
Corporation,  
Respondents-Appellants.

-----x  
Appeals having been taken to this Court from the order of the Supreme Court, New York County, entered on or about June 6, 2008, and the judgment entered thereon on or about November 19, 2009,

And non-party respondent Great American Insurance Company having moved for dismissal 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 denied.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
Felicia Burgos,  
Plaintiff-Appellant,

-against-

M-5703  
Index. No. 307718/08

Francisco Antonio Burgos,  
Defendant-Respondent.  
-----X

Plaintiff-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 July 17, 2009 (mot. seq. no. 001),

And an order of this Court having been entered November 19, 2009 (M-4538) dismissing said appeal,

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

It is ordered that the motion is denied as moot. (See the order of this Court entered on November 19, 2009 [M-4538], a copy of which is annexed hereto.)

ENTER:

  
**DEPUTY CLERK**

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 19, 2009.

PRESENT: Hon. Angela M. Mazzairelli, Justice Presiding,  
Richard T. Andrias  
Karla Moskowitz  
Dianne T. Renwick  
Rosalyn H. Richter, Justices.

-----X  
Felicia Burgos,

Plaintiff-Appellant,

-against-

M-4538  
Index No. 307718/08

Francisco Antonio Burgos,

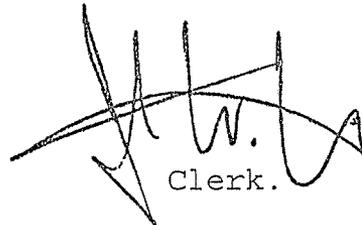
Defendant-Respondent.  
-----X

Defendant-respondent having moved for dismissal of the appeal taken from an order of the Supreme Court, New York County, entered on or about July 17, 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 and the appeal is dismissed.

ENTER:

  
Clerk.

CORRECTED ORDER - January 27, 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 January 14, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----x  
Maninder Bhugra,  
Plaintiff-Appellant/Appellant-  
Respondent,

-against-

M-5688  
Index No. 110825/07

Massachusetts Casualty Insurance  
Company, et al.,  
Defendants-Respondents,

Disability Management Services,  
Defendant-Respondent/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 October 17, 2008; and an appeal and cross appeal having been taken from the order of said Court entered on or about December 11, 2008, respectively,

And counsel for plaintiff, Bracken & Margolin, LLP, having moved for leave to withdraw as counsel of record for plaintiff, for an enlargement of time in which plaintiff may perfect the appeal(s), 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 that plaintiff's counsel Bracken & Margolin, LLP, are relieved as counsel on condition that counsel serve a copy of this order upon all parties within 10 days of the date of entry hereof. Plaintiff's time in which to perfect the direct appeals, which are sua sponte consolidated, is enlarged to on or before March 22, 2010 for the June 2010 Term, with no further enlargements to be granted. Upon plaintiff's failure to so perfect, respondents(s) may enter an ex parte order dismissing the consolidated appeals on condition they serve a copy of this order upon appellant within 10 days after the date of entry hereof. So much of the motion which seeks an order of this Court staying proceedings in Supreme Court is denied (CPLR 321[c]).

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

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

-against-

M-5639  
Ind. No. 5502/08

Raymond Smith,  
Defendant-Appellant.

-----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 September 24, 2009, for leave to prosecute the appeal as a poor person, upon the original record and upon a reproduced appellant's brief, 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 only to the extent of deeming the notice of appeal timely filed.

The motion, insofar as it seeks poor person relief is denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$5,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on January 14, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

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

-against-

M-5691  
Ind. No. 314/03

Delvin Espinal,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from an order of **resentence** of the Supreme Court, New York County, rendered on or about November 19, 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 **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on January 14, 2010.

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

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

-against-

M-5693  
Ind. No. 56/05

Reynaldo Quinones,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about December 1, 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 **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----x  
Triumph Property Group, Ltd.,

Plaintiff-Respondent,

-against-

EAI Two, LLC,

Defendant-Appellant.  
-----x

M-5622

M-5645

Index No. 106542/07

Defendant-appellant having moved by duplicate motions 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 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 April 2010 Term.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----x  
JPMorgan Chase Bank, N.A.,

Plaintiff-Appellant,

-against-

M-5793  
Index No. 603473/08

Parkcentral Global Hub Limited,

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 30, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the April 2010 Term, and the conditional relief afforded appellant by the order of a Justice of this Court dated November 24, 2009, is continued on condition appellant so perfects.

ENTER:

  
Clerk  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

-----X  
Robert Sumner, Sandford J. Goldfarb  
and Frank A. Canzone,  
Petitioners-Respondents,

-against-

M-5823  
Index No. 100150/08

Daniel D. Hogan, Chairman,  
John B. Simoni, Member, and Michael J.  
Hoblock, Jr., Member, constituting the  
New York State Racing and Wagering Board.  
Respondents-Appellants.

-----  
Troy Stables, LLC, Tarek Kazal and  
Donna M. Temming,  
Petitioners-Respondent,

-against-

Index No. 100843/08

Daniel D. Hogan, Chairman,  
John B. Simoni, Member, and Michael J.  
Hoblock, Jr., Member, constituting the  
New York State Racing and Wagering Board.  
Respondents-Appellants.

-----X

Respondents-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 April 1, 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 May 2010 Term.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

-----X  
In the Matter of the Application to  
Confirm an Arbitration Award Pursuant  
to CPLR Article 75 by

Halachic Organ Donor Society,  
Petitioner-Respondent,

-against-

M-5590  
Index No. 104855/08

Rachsham Group, Inc.,  
Respondent-Appellant.

-----X

Respondent-appellant having moved for an enlargement of time in which to perfect the appeal from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about January 27, 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 May 2010 Term.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

-----X  
Vanessa Khedouri,  
Plaintiff-Appellant,

-against-

M-5753  
Index No. 115025/07

Equinox,  
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 December 8, 2008,

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

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

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

-----X  
John Nimmo III,  
Plaintiff,

-against-

M-5591  
Index No. 402708/06

The City of New York Department  
of Transportation,  
Defendant.

-----X  
The City of New York Department  
of Transportation,  
Third-Party Plaintiff-Respondent,

-against-

Third-Party  
Index No. 590796/06

Parsons Brinckerhoff Construction  
Services, Inc.,  
Third-Party Defendant-Appellant.

-----X

Third-party defendant-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 January 16, 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 May 2010 Term.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

-----X  
Trayvon Ward, an Infant by his Father  
and Natural Guardian Troy Ward, and  
Troy Ward individually,  
Plaintiffs-Appellants,

-against-

M-5751  
Index No. 15810/05

New York City Health and Hospitals  
Corporation,  
Defendant-Respondent.

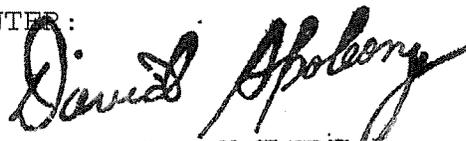
-----X

Plaintiffs-appellants 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 October 8, 2008,

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

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

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
Suzanne Dodson,  
Plaintiff-Respondent,

-against-

M-5757  
Index No. 350353/05

John Dodson,  
Defendant-Appellant.

-----  
Jo Ann Douglas, Esq.,  
Guardian Ad Litem.

-----X  
An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about October 24, 2008,

And plaintiff-respondent and the guardian ad litem having moved for dismissal of the aforesaid appeal or, in the alternative, for adjournment of said appeal,

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

It is ordered that the motion, to the extent it seeks dismissal of the appeal, is denied, without prejudice to movants addressing the issue on the appeal. The appeal is adjourned to the June 2010 Term.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----x  
Jacob Ahroner,

Plaintiff-Appellant-Respondent,

-against-

M-5480  
Index No. 602192/03

Israel Discount Bank of New York, also  
known as IDB, et al.,

Defendants-Respondents-Appellants.  
-----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 defendants-respondents-appellants having moved for a stay of trial pending hearing and determination of the appeal 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 denied.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
James M. McGuire  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of the Application  
of the Dormitory Authority of the  
State of New York to acquire title  
in fee to certain real property  
for use in a project to expand and  
consolidate

M-5499  
M-5619  
Index No. 102934/01

John Jay College of Criminal  
Justice of the City of New York,  
-----  
River Center, LLC,  
Claimant-Appellant-Respondent,

Blackacre Bridge Capital, LLC  
and SWH Funding Corp.,  
Claimants-Appellants-Respondents,

Dormitory Authority of the State  
of New York,  
Condemnor-Respondent-Appellant.

-----X

Separate appeals having been taken from the order of the Supreme Court, New York County, entered on or about May 29, 2008 and the judgment entered on or about June 5, 2008, and a cross appeal having been taken from the aforesaid judgment entered on or about June 5, 2008,

And claimants-appellants-respondents, River Center, LLC and Blackacre Bridge Capital, LLC and SWH Funding Corp. having jointly moved for an enlargement of time in which to perfect their direct appeal(s) (M-5499),

And condemnor-respondent-appellant, Dormitory Authority of the State of New York, having cross-moved to dismiss the direct appeals taken by the collective claimants-appellants (M-5619),

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

It is ordered that the motion (M-5499) is granted on condition that claimants perfect the direct appeal(s) for the May 2010 Term, with no further enlargements to be granted. Upon failure to so perfect, an order dismissing the direct appeal(s) may be entered ex parte provided that condemnor serves a copy of this order upon the claimants within 10 days after the date of entry hereof. The cross motion to dismiss the appeals is granted to the extent indicated (M-5619). Should the claimants fail to so perfect, condemnor is directed to perfect its cross appeal as a direct appellant for the next available Term of Court.

ENTER:

*David Apolony*  
**DEPUTY CLERK**

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
James M. McGuire  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
In the Matter of the Application of  
Fairfield Presidential Associates,  
LLC, et al.,  
Petitioners-Respondents,

For a Judgment under Article 78 of M-5328  
the CPLR, Index No. 108283/08

-against-

The City of New York, et al.,  
Respondents-Appellants.  
-----X

Respondents-appellants having moved for an enlargement of time in which to perfect the appeals taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about February 11, 2009, and from the order and judgment (one paper) entered on or about March 12, 2009, respectively,

Now, upon reading and filing the papers with respect to the motion, including the stipulation of the parties dated December 31, 2009, and due deliberation having been had thereon,

It is ordered that the motion and the underlying appeals are deemed withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
Eugene Nardelli  
Dianne T. Renwick  
Nelson S. Román, Justices.

-----X  
Janet Boyle,  
Plaintiff-Appellant,

-against-

M-5527  
Index No. 306269/08

Brooks Shopping Centers, LLC,  
Defendant-Appellant,

Macy's Inc., et al.,  
Defendants.

-----X

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal taken from the order of the Supreme Court, Bronx County, entered on or about July 20, 2009, pending hearing and determination of a motion for reargument and/or renewal presently sub judice,

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 September 2010 Term.

ENTER:

  
Clerk  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

-----x  
Francisco Del Villar,

Plaintiff-Appellant,

-against-

M-5324  
Index No. 15131/06

Rafaela Del Villar,

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 January 20, 2009 (mot. seq. nos. 004, 005),

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 on or before February 1, 2010 for the April 2010 Term, with no further enlargements to be granted.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

Present: Hon. John W. Sweeny, Jr., Justice Presiding,  
John T. Buckley  
James M. Catterson  
Rolando T. Acosta  
Helen E. Freedman, Justices.

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

Lechar Realty Corp. and Lechar Realty,  
LLC,

Petitioners-Appellants-Respondents,

M-4536

M-5377

-against-

Index No. 115861/07

Steven Lawitts, as Executor Director of  
the New York City Water Board, et al.,

Respondents-Respondents-Appellants.  
-----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 August 6, 2008 (mot. seq. no. 001),

And petitioners-appellants-respondents having moved to enlarge the time in which to perfect the direct appeal (M-4536),

And petitioners-appellants-respondents having moved to withdraw the aforesaid motion (M-4536), and to enlarge the time in which to perfect the direct appeal (M-5377),

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

Ordered that the motion (M-4536) is deemed withdrawn. The motion (M-5377) is granted to the extent of enlarging the time in which to perfect petitioners-appellants-respondents' direct appeal to on or before February 22, 2010 for the May 2010 Term.

ENTER:

  
DEPUTY CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 14, 2010.

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

-----x  
Boris Komarov, Bokom International,  
Ltd.,  
Plaintiffs-Respondents,

-against-

M-4555  
Index No. 602459/06

L & L International Import/Export, Inc.,  
et al.,  
Defendants,

Russian Black Pearl, Inc. and Lia  
Leybson, etc.,  
Defendants-Appellants.

-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about July 22, 2009, and from the judgment entered thereon on or about September 15, 2009,

And defendants-appellants having moved for a stay of enforcement 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 granted on condition defendants-appellants post an undertaking in the amount of \$210,000, within 20 days of the date of entry hereof, and perfect the appeal on or before February 22, 2010 for the May 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided respondent(s) serve a copy of this order upon appellants within 10 days after the date of entry hereof. Should appellant fail to so post the undertaking respondents may move on notice to vacate the stay.

ENTER:

  
DEPUTY CLERK

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

BEFORE: Hon. Richard T. Andrias  
Justice of the Appellate Division

-----x

The People of the State of New York,

M-50  
Ind. No. 1634/02

-against-

CERTIFICATE  
GRANTING LEAVE TO APPEAL  
TO THE COURT OF APPEALS

Fatin Johnson,  
Defendant-Appellant.

-----x

I, Richard T. Andrias, 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 the above-named appellant to appeal to the Court of Appeals.

  
Justice of the Appellate Division

Dated: January 7, 2010  
New York, New York

ENTERED: **JAN 14 2010**

\*Description of Order:

Supreme Court, New York County (Ronald A. Zweibel, J. at suppression hearing; Renee A. White, J. at line up application, jury trial and sentence), judgment rendered May 18, 2004.

App. Div., Appeal No. 9973, Affd on November 10, 2009.

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.

STATE OF NEW YORK  
APPELLATE DIVISION : FIRST DEPARTMENT

BEFORE: Hon. David B. Saxe  
Justice of the Appellate Division

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

M-5010  
Bronx Co.  
Indictment Nos.  
1455/92, 1828/92

-against-

CERTIFICATE  
DENYING LEAVE

Richard Garcia,

Defendant.  
-----X

I, David B. Saxe, 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 May 5, 2009, is hereby denied.

Dated: New York, New York

**ENTERED**

  
Justice of the Appellate Division

**JAN 14 2010**

**PM ORDERS**

**ENTERED**

**JANUARY 12, 2010**

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in in the County of New York on January 12, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
Simon Lorne and Ludmilla Lorne,  
Plaintiffs-Respondents,

-against-

**M-5654**  
Index No. 602769/07

50 Madison Avenue LLC and Samson  
Management LLC,  
Defendants-Appellants,

-and-

Goldstein Properties LLC, et al.,  
Defendants,

-and-

50 Madison Avenue Condominium, et al.,  
Defendants-Respondents.

-----X

50 Madison Avenue LLC and Samson  
Management LLC,  
Third-Party Plaintiffs-Appellants,

-against-

Third-Party  
Index No. 590141/09

RCDolner LLC,  
Third-Party Defendant-Appellant,

Commodore Construction Corp.,  
Third-Party Defendant-Respondent,

G.M. Crocetti, Inc., et al.,  
Third-Party Defendants.

-----X

-----X  
 RCDolner, LLC,  
 Fourth-Party Plaintiff-Appellant,

-against-

Fourth-Party  
Index No. 590265/09

Olympic Plumbing & Heating Corp., et al.,  
 Fourth-Party Defendants-Respondents.

-----X  
 50 Madison Avenue LLC and Samson  
 Management LLC,  
 Third Third-Party Plaintiffs-Appellants,

-against-

Third Third-Party  
Index No. 590355/09

Platt Byard Dovell White Architects LLP,  
 Third Third-Party Defendant-Respondent.

-----X

An appeal having been taken by third-party defendant/  
 fourth-party plaintiff-appellant, RCDolner, LLC, from the order  
 of the Supreme Court, New York County, entered on or about  
 July 6, 2009 (mot. seq. no. 006, 007, 008 and 009),

And third-party defendant/fourth-party plaintiff-  
 appellant, RCDolner, LLC, having moved for leave to supplement  
 the record on appeal filed by defendants/third-party plaintiffs-  
 appellants to the extent of including their notice of appeal in  
 the aforesaid record on appeal, for adjournment of the appeal(s),  
 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 appellant RCDolner, LLC to serve and file 10 copies  
 of a supplemental record on appeal with the Clerk of this Court.  
 The appeal(s) are adjourned to the May 2010 Term. (See M-5636,  
 decided simultaneously herewith.)

ENTER:   
 DEPUTY CLERK  
 Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 12, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
David Friedman  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
Simon Lorne and Ludmilla Lorne,  
Plaintiffs-Respondents,

-against-

**M-5636**

Index No. 602769/07

50 Madison Avenue LLC and Samson  
Management LLC,  
Defendants-Appellants,

-and-

Goldstein Properties LLC, et al.,  
Defendants,

-and-

50 Madison Avenue Condominium, et al.,  
Defendants-Respondents.

-----X  
50 Madison Avenue LLC and Samson  
Management LLC,  
Third-Party Plaintiffs-Appellants,

-against-

Third-Party

Index No. 590141/09

RCDolner LLC,  
Third-Party Defendant-Appellant,

Commodore Construction Corp.,  
Third-Party Defendant-Respondent,

G.M. Crocetti, Inc., et al.,  
Third-Party Defendants.

-----X

-----X

RCDolner, LLC,  
Fourth-Party Plaintiff-Appellant,

-against-

Fourth-Party  
Index No. 590265/09

Olympic Plumbing & Heating Corp., et al.,  
Fourth-Party Defendants-Respondents.

-----X

50 Madison Avenue LLC and Samson  
Management LLC,  
Third Third-Party Plaintiffs-Appellants,

-against-

Third Third-Party  
Index No. 590355/09

Platt Byard Dovell White Architects LLP,  
Third Third-Party Defendant-Respondent.

-----X

An appeal having been taken by defendants/third-party plaintiffs-appellants from the order of the Supreme Court, New York County, entered on or about July 6, 2009 (mot. seq. no. 006, 007, 008 and 009),

And defendants/third-party plaintiffs-appellants having moved for a stay of enforcement of the aforesaid order, pending hearing and determination of the appeal,

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

It is ordered that the motion is denied. (See M-5654, decided simultaneously herewith.)

ENTER:

  
Clerk.  
DEPUTY CLERK

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

BEFORE: Hon. Richard T. Andrias  
Associate Justice of the Appellate Division

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

TAJIRI SWINDELL,

Petitioner-Respondent,

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

-against-

M-5614  
Index No. 112883/09

JOHN ANTONELLI, Acting Correction  
Commissioner of the New York City  
Department of Correction; THE NEW  
YORK CITY DEPARTMENT OF CORRECTION;  
and THE CITY OF NEW YORK,

Respondents-Appellants.

-----X

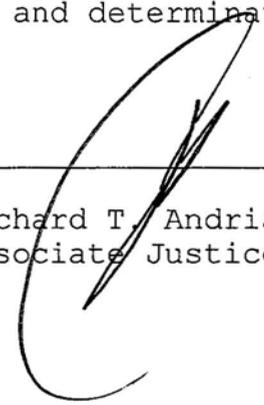
Respondents, having moved for leave to appeal to this Court from the order of the Supreme Court, New York County (Alice Schlesinger, J), entered on or about November 20, 2009 and related relief,

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 for leave to appeal is granted on condition that respondents perfect the appeal, on or before February 22, 2010, for the May 2010 Term, and

It is further ordered that the interim relief granted respondents-appellants by a Justice of this Court on December 10,

2009 is continued pending the hearing and determination of the appeal.



---

Richard T. Andrias  
Associate Justice

Dated: January 8, 2010  
New York, New York

Entered: **JAN 12 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 January 12, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,  
James M. McGuire  
Karla Moskowitz  
Helen E. Freedman  
Nelson S. Román, Justices.

-----X  
Max Hixon,

Plaintiff-Respondent,

-against-

Nazam Khan,

Defendant-Appellant.  
-----X

M-5566  
Index No. 7914/06

Defendant-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 10, 2008,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to on or before February 1, 2010 for the April 2010 Term, with no further enlargements to be granted. Upon failure to so perfect an order dismissing the appeal may be entered ex parte, provided respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:

  
Clerk  
**DEPUTY CLERK**

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 12, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
The People of the State of New York  
ex rel. Michelle Fox and Afsi Khot,  
on behalf of Charles Smith,  
Petitioner-Appellant,

-against-

M-5507  
Index No. 403011/09

Dora Schriro, Commissioner, New York  
City Department of Correction,  
Respondent-Respondent.

-----X

Petitioner-appellant having moved for the continuation of his release on recognizance upon Order Granting Bail After Appeal Taken issued by a Justice of this Court, dated December 4, 2009, pending hearing and determination of the appeal taken from the judgment of the Supreme Court, New York County, entered on or about December 2, 2009, which denied petitioner's writ of habeas corpus proceeding, for leave to prosecute said appeal as a poor person, for the assignment of counsel, and for a preference in the hearing of said appeal,

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

It is ordered that the motion is granted to the extent of continuing appellant's release on recognizance granted by an order of a Justice of this Court, dated December 4, 2009, on condition that the appeal is perfected on or before February 22, 2010 for the May 2010 Term. The appeal is permitted to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney, New York County, and files 10 reproduced copies of such brief, together with the original record, with this Court. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record. Upon failure to perfect said appeal for the May 2010 Term, an order vacating the aforesaid Order releasing appellant upon his own recognizance may be entered ex parte, provided that respondent-respondent serves a copy of this order upon petitioner-appellant within 10 days after the date of entry hereof.

Pursuant to Section 35 of the Judiciary Law, Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for appellant for purposes of the appeal.

ENTER:

  
Clerk.  
DEPUTY CLERK