

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

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

-----X
EFCO Corp.,
Plaintiff-Respondent,

-against-

M-4022X
Index No. 600146/07

Liberty Mutual Insurance Co.,
Defendant-Appellant,

Graystone Construction Corp., et al.,
Defendants.
-----X

Appeals having been taken to this Court by defendant, Liberty Mutual Insurance Co., from the order of the Supreme Court, New York County, entered on or about October 30, 2009 and from the judgment of said Court, entered on or about July 9, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" August 6, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 October 21, 2010.

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

-----X
Suzanne R. Steinbaum,
Plaintiff-Respondent,

-against-

M-4442X
Index No. 308157/09

Scott E. Kreitzer,
Defendant-Appellant.
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about April 1, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 1, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 October 21, 2010.

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

-----X
Mary Morris,
Plaintiff-Respondent,

-against-

M-4443X
Index No. 105149/09

RCPI Landmark Properties, LLC, et al.,
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about April 14, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 1, 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 October 21, 2010.

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

-----X
Shefkije Kukaj,
Plaintiff,

-against-

M-4541X
Index No. 111187/08

100 Property LLC, Hiro Real Estate
Co. and Craven Management, Corp.,
Defendants.

-----X
(And a third-party action)
-----X

Third-party defendant Pritchard Industries, Inc.,
having taken an appeal from an order of the Supreme Court, New
York County, entered on or about February 17, 2010,

Now, after pre-argument conference and upon reading and
filing the stipulation of the parties hereto, "so ordered"
September 8, 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 October 21, 2010.

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

-----X
Kramer Levin Naftalis & Frankel LLP,
Plaintiff-Appellant,

-against-

M-3249
Index No. 116300/08

Canal Jean Co., Inc., et al.,
Defendants-Respondents.

-----X

Defendants-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 May 25, 2010 (Appeal No. 2610),

Now, upon reading and filing the papers with respect to the motion, and the notices of withdrawal of the parties, dated July 7, 2010 and July 20, 2010, respectively, and due deliberation having been had thereon,

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

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

-----X
In the Matter of the Application of
Laurence Abrams as the Administrator
of Workmen's Circle Multicare Center,
Petitioner-Respondent,

M-2786
Index No. 91740/09

For the Appointment Pursuant to
Article 81 of the Mental Hygiene
Law of a Guardian of the Person and
Property of

Cephus Coleman, an Incapacitated Person,
Angel Brown-Phifer,
Respondent-Appellant.

-----X
An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about April 27, 2010,

And respondent-appellant having moved for a stay of all proceedings, and for other relief,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from counsel for petitioner-respondent, Law Office of Sandra M. Prowley and Associates, LLC, dated June 25, 2010, and due deliberation having been had thereon, it is

Ordered that the motion and the underlying appeal are deemed 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 October 21, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David Friedman
Leland G. DeGrasse
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

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

-against-

M-3808
Ind. No. 3117/98

Sylvester Hunt,
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about October 10, 2001, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

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

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:

David Spokony
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
James M. McGuire
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

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

-against-

M-4271
Ind. No. 1826/08

Wendy Gabriel, also known as Wendy C.
Gabriel,
Defendant-Appellant.

-----X

Defendant having renewed her motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about November 20, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

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

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 October 21, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
Rolando T. Acosta
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
Stabfund (USA) Inc. as assignee of
UBS Real Estate Securities, Inc.,
Plaintiff-Respondent,

-against-

Perimeter Bridge & Scaffold Co., Inc.,
MRC II Contracting Inc., Moretrench
American Corp., Triton Construction
Company, Gace-Goldsein Associates
Consulting, Topflight Contracting,
LLC, Environmental Control Board of
the City of New York, John Does
Nos. 1-100, John Doe Corporation
Nos. 1-100 and John Doe Company
Nos. 1-100,
Defendants,

M-4148
Index No. 103763/09

Gramercy Park Land LLC, Leonard
Taub and Norman Kaish,
Defendants-Appellants.

-and-

The Names of the "John Doe"
defendants being Fictitious
and Unknown to Plaintiff, the
Persons and Firms Intended being
those who may be in possession of,
or may have possessory, lien or
other interests in the premises
herein described.

-----X

Defendants-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 December 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 granted to the extent of enlarging the time in which to perfect the appeal to the February 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 October 21, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
Eugene Nardelli
James M. McGuire
Sheila Abdus-Salaam, Justices.

-----X
In Re East 51st Street Crane Collapse

Richard Antoniello, Cheri Antoniello,
Robert Badia, Nelly Badia, Brett Berry,
Melissa Dolman, Stephen Freeman, Daniel
Gibraltar, Jill Haworth, Lauren Hornung,
Karen-Marie Hentschel, Barry King, Nancy
Lamber, Robyn Silvermintz, Jennifer
Lamprecht, Albert Lipton, Camille Lipton,
Lisa Manowitz, Alice McQuillan, Chris
Pascale, Claudia Geiger, Rosina Patti,
Vita Pelletieri, Mara Prager, Adam Rosen,
Jamie Rudolph, Rosario Saglimbeni, Ciny
Gise, Patricia Sorenson, Wilfredo Vego,
Jennifer Willig, George Zicarelli and
Ann Zicarelli,
Plaintiffs-Respondents,

-against-

M-4671
Index No. 102024/09

East 51st Street Development Company,
LLC, The City of New York, Reliance
Construction Group, RCG Group, Inc.,
Joy Contractors, Inc., Stroh
Engineering Services, P.C. and
Consolidated Edison Company of
New York, Inc.,
Defendants,

-and-

New York Crane & Equipment Corporation,
Defendant-Appellant.

-----X

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

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the March 2011 Term (See M-4673 and M-4674 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 October 21, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
Eugene Nardelli
James M. McGuire
Sheila Abdus-Salaam, Justices.

-----X
In Re East 51st Street Crane Collapse

Sherry Olan Berner,
Plaintiff-Appellant,

-against-

M-4673
Index No. 107621/09

East 51st Street Development Company,
LLC, The City of New York, Reliance
Construction Group, RCG Group, Inc.,
Joy Contractors, Inc., Stroh
Engineering Services, P.C. and
Consolidated Edison Company of
New York, Inc.,
Defendants,

-and-

New York Crane & Equipment Corporation,
Defendant-Appellant.

-----X
(And a Third-Party Action
-----X

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about December 10, 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 March 2011 Term (See M-4671 and M-4674 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 October 21, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
Eugene Nardelli
James M. McGuire
Sheila Abdus-Salaam, Justices.

-----X
In Re East 51st Street Crane Collapse

Matthew DePouli, Needhi Sheth and Sarah Shumway, Rachel Bernard and Joyce Munn, Index No. 769000/08
Plaintiffs-Respondents,

-against-

Kennelly Development Company, LLC,
James P. Kennelly, East 51st Street
Development Company, LLC, Reliance
Construction Ltd., Reliance Construction
Group, RCG Group, Ltd., Reliance Construction
Group, Inc., JBS Construction Management,
Inc., Joy Contractors, Inc., Favelle
Favco Berhad, Favelle Favco Cranes
(USA) Inc., Muhibbah Engineering (M)
BHD, Rapetti Rigging Services, Inc.,
William Rapetti, Stroh Engineering
Services, P.C., Peter J. Stroh,
Garrett Gourlay Architect PLLC,
Consolidated Edison Company of
New York, Inc., Civetta Cousins JV
LLC, Lift-All Company, Inc., Leftex
Corporation, Weinstock Brothers
Corporation, C.S. Mechanical &
Equipment Corporation, Crane
Inspection Services, Inc., Brady
Marine repair Company, Inc., Langan
Engineering & Environmental Services,
Inc., Metro Wire Rope Corporation,
Shaw Belting Company, Construction &
Realty Safety Group, Inc., Industrial
Sales Company, Inc., also known as
Indusco, John Does 1 through 4 and
The City of New York,
Defendants,

M-4674
Index No. 105934/09

-and-

James F. Lomma, New York Crane &
Equipment Corporation,
Defendants-Appellants.

-----X

Defendants-appellants having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about December 8, 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 March 2011 Term (See M-4671 and M-4673 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 October 21, 2010.

PRESENT: Hon. Luis A. Gonzalez, Justice Presiding,
Peter Tom
Angela M. Mazzarelli
Eugene Nardelli, Justices.

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

-against-

M-3374
Ind. No. 6653/99

Woodrow Flemming,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on September 23, 2003 (Appeal No. 1620), unanimously affirming a judgment of the Supreme Court, Bronx County (Dennis Boyle, J.), rendered on April 11, 2001,

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 October 21, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
Rosalyn H. Richter
Nelson S. Román, Justices.

-----X

Mode Contempo, Inc.,

Plaintiff-Respondent-Appellant,

-against-

M-4119

Index No. 650198/09

Raymours Furniture Company, Inc.,

Defendant-Appellant-Respondent.

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 3, 2010,

And plaintiff-respondent-appellant having moved for an order striking defendant's Note of Issue and Joint Record on 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, and the Clerk is directed to maintain the appeal and cross appeal on this Court's calendar for hearing in 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 October 21, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David Friedman
James M. Catterson
Diane T. Renwick
Sallie Manzanet-Daniels, Justices.

-----x
Priscilla Quinones,
Plaintiff-Appellant,

-against-

New England Motor Freight, Inc.,
sued herein as New England Motors and
Roger Pease,
Defendants-Respondents,

M-4392
Index No. 15969/07

-and-

Michael Demore and Amilkar Garcia,
Defendants.

-----x
Separate appeals having been taken to this Court by plaintiff from orders of the Supreme Court, Bronx County, entered on or about March 10, 2010 and April 19, 2010, respectively,

And defendant-respondent New England Motor Freight, Inc., sued herein as New England Motors, 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, and the notices of appeal are deemed premature (CPLR 5520 [c]).

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David B. Saxe
David Friedman, Justices.

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

-against-

M-3568
Ind. No. 8472/99

Jose Maurad,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on September 30, 2003 (Appeal No. 1684), unanimously affirming a judgment of the Supreme Court, New York County (John Cataldo, J.), rendered on January 31, 2001,

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 October 21, 2010.

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

-----X

In the Matter of the Application of

James J. Wrynn, Superintendent of Insurance of the State of New York, for an order to take possession of and liquidate the business and affairs of

M-1307

M-1476

M-1516

Index No. 401477/09

The Insurance Corporation of New York.

James J. Wrynn,
Petitioner-Appellant.

-----X

(And proposed intervenor actions)

An appeal having been taken by the Superintendent of Insurance of the State of New York from the order and judgment (one paper) of the Supreme Court, New York County, and the Order of Liquidation attendant thereto, both dated March 4, 2010 and both entered on or about March 10, 2010,

And petitioner having moved for in the nature of a preliminary appellate injunction with respect to any further proceedings and/or third-party actions, pending hearing and determination of the aforesaid appeal (M-1307),

And proposed intervenors, Elly Kleinman and Brochie Kleinman, having cross-moved for leave to intervene as respondents on the aforesaid appeal (M-1476),

And proposed intervenor, 219 East 7th Street Housing Development Fund Corporation, having cross-moved for the same relief (M-1516),

Now, upon reading and filing the papers with respect to the motion and cross motions, and the correspondence from petitioner's counsel, New York Liquidation Bureau (John Pearson Kelly, of counsel), dated March 24, 2010; and respective proposed intervenors' counsel, Forchelli, Curto, Deegan, Schwartz, Mineo, Cohn & Terrana, LLP (Richard C. Goldberg, of counsel), dated April 12, 2010; and Simon, Eisneberg & Baum, LLP (Edward Alper, of counsel), dated April 23, 2010, and due deliberation having been had thereon, it is

Ordered that petitioner's motion (M-1307) and both cross motions (M-1476 & M-1516) are deemed withdrawn in accordance with the aforesaid correspondence, the underlying appeal having been 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 October 21, 2010.

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

-----X
The People of the State of New York
ex rel. Andre Steadman,
Petitioner-Appellant,

-against-

M-1570
Index No. 341080/08

Warden, Anna M. Kross Center, and
New York State Division of Parole,
Respondents-Respondents.

-----X

An order of this Court having been entered on January 28, 2010 (M-5425) dismissing, as moot, petitioner's appeal from the order of the Supreme Court, Bronx County, entered on or about June 15, 2009,

And petitioner-appellant having moved for reinstatement 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 denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
David Friedman
James M. Catterson
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X

In the Matter of the Application of
Honorable Daniel Dromm, etc., et al.,
Petitioners,

M-4915

For an Order Pursuant to Article 78 Index No. 112284/10
of the Civil Practice Law and Rules,

-against-

The New York City Health and Hospitals
Corporation,
Respondent.

-----X

Respondent, the New York City Health and Hospitals Corporation, having moved for leave to appeal to this Court from the order of the Supreme Court, New York County, entered on or about September 30, 2010, and for a stay of all proceedings pending hearing and determination 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 deemed one pursuant to CPLR 5704(a) seeking to vacate a temporary restraining order granted by Supreme Court on September 17, 2010 and continued on or about September 29, 2010, and as such said motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
John W. Sweeny, Jr.
Eugene Nardelli
James M. Catterson
Leland G. DeGrasse, Justices.

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

-against-

M-4272
Ind. No. 581/09

Angel Delarosa,
Defendant-Appellant.
-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about September 22, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

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

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 October 21, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,
Eugene Nardelli
Karla Moskowitz
Leland G. DeGrasse
Nelson S. Román, Justices.

-----x
Paul C. Lounsbury, also known as
Paul C. Lounsbury, heir to the Estate
of Lavina Nihoul Lounsbury, also known
as Lavina Lounsbury,
Defendant-Appellant,

Jonathan M. Hunt, etc., et al.,
Defendants,

M-4928
Index No. 116822/06

-against-

Bank of New York as Trustee for the
Certificateholders of CWALT 2005-38,
et al.,
Plaintiffs-Respondents.

-----x

Defendant-appellant having moved for a stay of foreclosure proceedings pending hearing and determination of the appeal from the order of the Supreme Court, New York County entered on or about June 23, 2010 (mot. seq. no. 004),

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

It is ordered that the motion is denied.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
Karla Moskowitz
Helen E. Freedman
Nelson S. Román, Justices.

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

-against-

M-4293
Ind. No. 3975/09

Mark F. Green,
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, Bronx County, rendered on or about July 12, 2009, and for leave to prosecute the appeal as a poor person on 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 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Tel. 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 October 21, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Eugene Nardelli
James M. McGuire
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Adriano D.,
Petitioner-Respondent,

-against-

M-4408
Docket No. Unknown
IDV No. 56/04

Yolanda A.,
Respondent-Appellant.
-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, Integrated Domestic Violence Court (IDV), entered on or about June 23, 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, Steven N. Feinman, Esq., 19 Court Plaza, Suite 201, White Plains, NY 10601, Telephone No. (914) 949-8214, as counsel, for purposes of prosecuting the appeal; (2) directing the Clerk of said Supreme Court to have transcribed within 60 days of service of a copy of this order upon the Clerk, the minutes of the proceedings held in the Supreme Court, Bronx County, Integrated Domestic Violence Court, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor¹; (3) permitting appellant to dispense with any fee for transferring the record from the said Court to this Court; and (4) enlarging the time to perfect this appeal until 120 days from the date of filing of the record in compliance with Rule 600.11 (b) (2) and © of the Rules of this Court. Assigned counsel is directed to immediately subpoena the record from the Bronx County, Integrated Domestic Violence Court and to serve a copy of this order upon the Clerk of the Court.

E N T E R


Clerk.

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Eugene Nardelli
James M. McGuire
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
In the Matter of

Essence S. and Kenzie S.,

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

M-4421
Docket Nos. B4592-3/08

Abbott House,
Petitioner-Appellant,

Jeffrey H.,
Respondent-Respondent.

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

-----X

Respondent-respondent having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, Bronx County, entered on or about July 19, 2010, and for the 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 attorneys for petitioner-appellant and 8 copies thereof are to be filed with this Court, and (2) assigning, pursuant to Section 18b of the County Law and § 1120 of the Family Court Act, Howard M. Simms, Esq., 295 Greenwich St., #222, New York, NY 10007, Telephone No. (212) 655-5802, 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 October 21, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,
David Friedman
Karla Moskowitz
Helen E. Freedman
Nelson S. Román, Justices.

-----X
In the Matter of the Application of
John Covington,
Petitioner-Appellant,

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

-against-

M-4176
Ind. No. 402695/09

Sgt. James Russo, P.O. Jonathan
David,
Respondents-Respondents.

-----X

Petitioner having moved for leave to prosecute, as a poor person, the appeal from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about June 1, 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 October 21, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Rolando T. Acosta
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Hui-Cong Lin and Zhong-Yue Ouyang,

Plaintiffs-Respondents,

-against-

M-4714
Index No. 8303/07

JMED Holdings, LLC,
Defendant-Appellant,

Pacha Corp. and RM Holdings Company,
Inc.,
Defendants.

-----X

Defendant-appellant JMED Holdings LLC 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 August 12, 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 February 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 October 21, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,
Rolando T. Acosta
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
James Lastra,
Plaintiff-Appellant,

-against-

M-4467
Index No. 251373/09

"John Doe,"
Defendant-Respondent.
-----X

Plaintiff-appellant having moved for a stay of all proceedings herein and in other certain related cases pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about August 20, 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 October 21, 2010.

PRESENT - Hon. David B. Saxe, Justice Presiding,
David Friedman
Karla Moskowitz
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Joan McInerney,
Plaintiff-Respondent,

-against-

M-4301
File No. 2243/08

Michael J. McInerney,
Respondent-Appellant.

-----X

An appeal having been taken to this Court from an order of the Surrogate's Court, Bronx County, entered on or about July 17, 2009, said appeal having been perfected and calendared for the November 2010 Term,

And respondent-appellant having moved for an order compelling Calvary Hospital to release to him all medical records of the decedent Michael G. McInerney,

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

It is ordered that the motion is denied.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
Eugene Nardelli
Leland G. DeGrasse
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

-----X
Vito Sacchetti, et al.,
Plaintiffs-Appellants,

-against-

M-4509
Index No. 301374/07

Stern Agency, Inc., et al.,
Defendants-Respondents.

-----X
(And a Third-Party Action)
-----X

Plaintiffs-appellants having moved for a further enlargement of time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about June 25, 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 February 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 October 21, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
Eugene Nardelli
Leland G. DeGrasse
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

-----X
David G.,
Plaintiff-Appellant,

-against-

M-4446
Index No. 302759/03

Rachel G.,
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about May 22, 2009 (mot. seq. no. 009),

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 January 3, 2011 for the March 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 October 21, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
Eugene Nardelli
Leland G. DeGrasse
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

-----X
Paul Eggert,
Plaintiff-Appellant,

-against-

M-4492
Index No. 115419/07

GCD Recording Studios, also known as
Roc the Mic, Shawnelle Scott, Samuel
Albano,
Defendants,

-and-

Juan Perez,
Defendant-Respondent.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about February 13, 2009,

And defendant-respondent having moved for leave to strike plaintiff's appeal from this Court's calendar, with prejudice and for imposition of costs and sanctions,

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

It is ordered that so much of the motion which seeks to strike the appeal is denied. So much of the motion which seeks costs and sanctions is denied without prejudice to defendant-respondent seeking such relief on 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 October 21, 2010.

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

-----x
MCC Development Corporation,

Plaintiff-Appellant,

-against-

M-3839
Index No. 101141/06

Daniel Perla, et al.,

Defendants-Respondents.

-----x

Defendants-respondents having moved for dismissal of the appeal from the order of the Supreme Court, New York County entered on or about May 12, 2009,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated August 6, 2010, and due deliberation having been had thereon,

It is ordered that the motion is deemed 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 October 21, 2010.

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

-----X
Steven Haddock,
Plaintiff-Appellant,

-against-

M-3797
Index No. 115367/08

Turner Construction Company and
Lincoln Center for the Performing
Arts, Inc. and JDP Mechanical, Inc.,
Defendants-Respondents.

-----X

Defendants-Respondents Lincoln Center for the Performing Arts, Inc. and JDP Mechanical, Inc. having moved for dismissal of the appeal taken from the order of the Supreme Court, New York County, entered on or about September 10, 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. Sua sponte, the appeal is deemed 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 October 21, 2010.

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

-----X
George Aldrich, et al.,

Plaintiffs-Appellants,

-against-

M-4179
Index No. 605336/99

Marsh & McLennan Companies, Inc.,
et al.,

Defendants-Respondents.
-----X

Defendants-respondent having moved for an order dismissing plaintiffs-appellants' appeal taken from the order of the Supreme Court, New York County, entered on or about May 21, 2010 (mot. seq. no. 021),

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 dismiss the appeal is granted unless the appeal is perfected on or before January 3, 2011 for the March 2011 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondents serve a copy of this order upon the appellants within 10 days after the date of entry hereof.

ENTER:


Clerk.

CORRECTED ORDER – NOVEMBER 29, 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 October 21, 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 Proceeding for
Custody and a Family Offense Proceeding
Under Articles 6 and 8 of the Family
Court Act.

- - - - -
Jennifer M., Docket Nos. **M-3519** V13871/08
Petitioner-Respondent, 052367/08
V6083/08
-against-

Derek J.,
Respondent-Appellant.

-----X

Respondent-appellant father 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 May 24, 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, Julian A. Hertz, Esq., 15 Sherwood Drive, Larchmont, NY 10538, Telephone No. (914) 834-5461, 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,

CORRECTED ORDER – NOVEMBER 29, 2010

(M-3519)

-2-

October 21, 2010

the cost thereof to be charged against the City of New York from funds available therefor¹ **within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order** and; (4) directing appellant to perfect this appeal **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 black ink, appearing to read "Susan Rojas". The signature is written in a cursive, flowing style.

Clerk.

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

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on October 21, 2010.

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

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

-against-

M-4287
Ind. No. 3440/09

Luis Ayala,
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 June 30, 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 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 October 21, 2010.

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

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

-against-

M-4217
Ind. No. 5870/07

Darin O'Rourke,
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 July 1, 2010, and for leave to prosecute the appeal as a poor person on 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 to the extent of deeming the notice of appeal timely filed, 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Tel. 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 October 21, 2010.

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

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

-against-

M-4214
Ind. No. 690/08

Ernest Wilson, also known as
Ernesto Wilson,
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, Bronx County, rendered on or about February 9, 2010, 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 facts sufficient to establish that defendant has no funds or assets with which to prosecute the appeal, including the amount and sources of his income and listing his property with its value.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

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

-----X
Herminia Narvaez,
Plaintiff-Respondent,

-against-

M-3710
M-3883
Index No. 22424/06

KK & J, LLC,
Defendant,

2914 Third Avenue Bronx, LLC and
Thor Equities, LLC.,
Defendants-Appellants-Respondents.

-----X
2914 Third Avenue Bronx, LLC and
Thor Equities, LLC.,
Third-Party Plaintiffs-Appellants-
Respondents,

-against-

Third-Party
Index No. 85860/07

2914 Third Sportswear Realty Corp.,
Third-Party Defendant-Respondent-
Appellant.

-----X

Defendants/third-party plaintiffs-appellants-respondents and third-party defendant-respondent-appellant having moved by separate motions for an enlargement of time in which to perfect the appeal and cross appeal from the order of the Supreme Court, Bronx County, entered on or about October 26, 2009,

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

It is ordered that the motion and cross motion are granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the March 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 October 21, 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 Application of
Pierre Gone,
Petitioner,

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

M-3779
Index No. 103190/08

The City of New York Police Department
and Thomas M. Prasso, Director,
License Division, NYC Police Department,
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 October 21, 2008 (mot. seq. no. 001),

And petitioner having moved for a further enlargement of time in which to perfect the aforesaid 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 denied and the proceeding is dismissed.

ENTER:


Clerk

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

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

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

M-3184
Ind. No. 3822/91

-against-

CERTIFICATE
DENYING LEAVE

Gil Terrence,

Defendant.

-----X

I, Eugene L. Nardelli, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, section 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about March 15, 2010, is hereby denied.



Associate Justice

Dated: **OCT 18 2010**
New York, New York

ENTERED

OCT 21 2010

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

BEFORE: Hon. KARLA MOSKOWITZ
Justice of the Appellate Division

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

M-4369
Ind.No. 1969/80

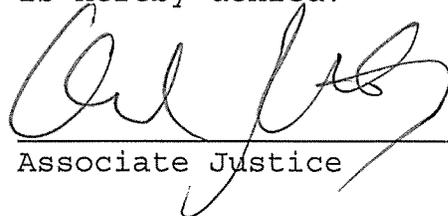
-against-

CERTIFICATE
DENYING LEAVE

Delano Brown

Defendant.
-----X

I, Karla Moskowitz, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application deemed 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 that 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 June 24, 2010, is hereby denied.



Associate Justice

Dated: OCT 18 2010
New York, New York

ENTERED: OCT 21 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-4297
Ind. No. 4/05

-against-

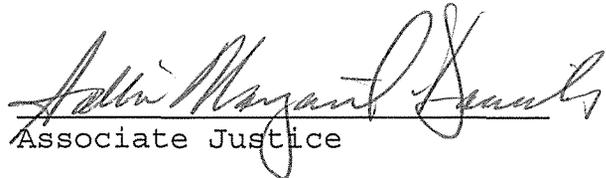
CERTIFICATE
DENYING LEAVE

Pedro Cruz,

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 (Carol Berkman, J.), entered on or about May 10, 2010 is hereby denied.


Associate Justice

Dated: October 1, 2010
New York, New York

ENTERED: OCT 21 2010

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

OCT 21 2010

Angela M. Mazzairelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Dianne T. Renwick
Sallie Manzanet-Daniels, Justices.

-----X

In the Matter of Clement A. Francis,
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-2242
for the First Judicial Department,
Petitioner,

Clement A. Francis,
Respondent.

-----X

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Clement A. Francis, 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
September 20, 2000.

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

Jerome Karp, for respondent.

IN THE MATTER OF CLEMENT A. FRANCIS, AN ATTORNEY

Per Curiam

Respondent Clement A. Francis was admitted to the practice of law in the State of New York by the Second Judicial Department on September 20, 2000. At all times relevant herein, respondent registered with the Office of Court Administration as having his business address within the First Judicial Department.

The Departmental Disciplinary Committee opened an investigation after receiving notification from the Lawyers' Fund for Client Protection of a dishonored \$30,000 check drawn by respondent. The Committee's audit revealed that respondent failed to keep a ledger for his IOLA account and instead tried to balance the account by keeping a "cushion" of personal funds in it. This system resulted in shortfalls, culminating with the dishonored check. Subsequently, respondent deposited personal funds into the IOLA account and the check was paid.

On November 14, 2008, the Committee filed seven charges alleging respondent used client funds for personal purposes without permission in violation of DR 9-102(A), commingled escrow and personal funds in violation of DR 9-102(A), disbursed personal funds from his IOLA account in violation of DR 9-102(B)(1), failed to maintain a ledger or similar record of deposits and disbursements in violation of DR 9-102(D)(1), 9-

102(D) (2) and 9-102(D) (9), and engaged in conduct adversely reflecting on his fitness to practice law in violation of DR 1-102(A) (7). In a pre-hearing stipulation, respondent admitted all of the factual allegations and charges.

A Referee held a liability hearing on January 16 and March 4, 2009, and a sanction hearing on April 21, 2009. At the hearing, respondent appeared by counsel, testified on his own behalf and introduced into evidence his psychologist's report and four character letters written by attorneys who described him as kind, generous, honest, honorable and hard-working. The Committee introduced into evidence a psychiatric report and a Letter of Admonition issued in connection with respondent's failure to enter into a written retainer agreement. In a report dated September 8, 2009, the Referee sustained the charges and recommended a public censure. A Hearing Panel heard oral argument and, in a report dated December 31, 2009, confirmed the Referee's findings and recommendation as to sanction.

Now, by petition, the Committee seeks an order, pursuant to 22 NYCRR 603.4(d) and 605.15, confirming the Hearing Panel's determination and imposing censure.

Respondent grew up in Grenada in a close-knit family where sharing with the less fortunate was the norm. Respondent's law practice consisted primarily of immigration and real estate, representing mostly poor and unemployed clients. Respondent

wanted to help his clients, and he sometimes made payments on their behalf, including application fees and mortgage payments.

In 2000, respondent opened an escrow account without realizing that he needed to keep a ledger. In June 2004, an individual who rented office space to respondent asked him to deposit a \$144,050.80 check into his IOLA account and disburse it as directed¹. On June 30, 2004, respondent deposited the check into his IOLA account and then disbursed various checks at that individual's request.

On or about December 21, 2005, respondent's final check for \$30,000 was dishonored. On December 23, 2005 respondent deposited personal funds into the account to cover the check. This was the only check to be dishonored. The individual did not lose any money as a result and submitted a character letter attesting to respondent's honesty.

The Committee's audit of respondent's IOLA account revealed that between June 22, 2004 and November 10, 2005, there were shortfalls in the account totaling \$15,371.68 caused by respondent making payments on behalf of his clients and returning fees to clients who needed the money. The audit also revealed that respondent's own money was deposited into the account, his clients lost no money and respondent never converted money for

¹ The Committee found no evidence that the funds deposited into respondent's escrow account were for an improper purpose.

personal use.

The sincerity of respondent's remorse over the mishandling of his IOLA account was supported by the reports of his expert, Dr. Jacob Mermelstein, and the Committee's expert, Dr. Amy Hoffman. Dr. Mermelstein saw respondent for 15 sessions, and in his January 8, 2009 report, concluded that respondent -

"in his endeavor to help others . . . failed to see the possibility of being used. Thus he was blind to the harm all of this would cause him. This is due to 'culture-shock'. Namely, coming from a tradition of trust, and encountering modern day 'bustle'. A good part of our sessions was devoted to learning . . . [the] correct handling of escrow funds, and separation between strict adherence to the rules of his profession and his personal need to help others."

Dr. Hoffman agreed "with Dr. Mermelstein's formulation that [respondent's] failure to keep good records had everything to do with his personality structure" and that he posed no threat to society by his practice of law. Dr. Hoffman opined that respondent was likely to continue helping those less fortunate and believed that he had gained insight into his behavior and would make good use of the advice and counsel of others.

The Referee found that respondent's violations of the IOLA rules "were largely due . . . to 'lack of sophistication and lack of know-how' or as stated by Dr. Mermelstein 'due to culture-shock coming . . . from a tradition of honesty . . .' and, as evident from his testimony, to his intense desire to use his legal skills to help his poor immigrant clients achieve a better

life, even to the use of his own money and to his own detriment". However, the Referee found that respondent's commendable intentions did not excuse his "failure to familiarize himself with the Rules . . . and/or seek the guidance of more experienced and knowledgeable practitioners" by which actions he "showed a serious lack of judgment".

The Referee found that the cases relied upon by the Committee in seeking an 18-month suspension involved more egregious conduct, such as the conversion of funds and failure to cooperate. In contrast, the cases relied upon by respondent, which involved the imposition of a public censure, were more similar to this matter where the violations were a result of poor judgment, rather than dishonesty, and respondent expressed remorse and fully cooperated with the Committee.

In recommending public censure, the Referee noted that

"[n]ot only has Respondent demonstrated an awareness of the seriousness of his violations . . . and his remorse . . . but he also undertook . . . to correct the manner in which he maintains his accounts, under the guidance of his counsel . . . and he is currently in compliance with all the relevant rules. In that setting, any suspension would merely be a punitive exercise . . . since I am convinced that [respondent] now fully appreciates the critical importance of strictly adhering to the Rules . . ."

A Hearing Panel confirmed the Referee's report in all respects and concurred in the sanction recommendation. The Panel noted that this Court has imposed a public censure for unintentional escrow violations caused by poor judgment where the

respondent expressed remorse and cooperated with the Committee, even where there has been a prior Admonition.

The Panel found that at least 7 of the 13 mitigating factors identified in the ABA Lawyer Sanctions Standards were present: (1) absence of dishonest or selfish motive; (2) personal or emotional problems; (3) timely good faith effort to make restitution or to rectify the consequences of misconduct; (4) full disclosure to disciplinary board or cooperative attitude toward proceedings; (5) inexperience in the practice of law; (6) character or reputation; and (7) remorse.

Now, the Committee seeks to confirm the Hearing Panel's determination and recommendation of censure.

This Court has indicated that an attorney who mishandles his escrow account as a result of negligence or mistake, including commingling personal funds with client funds, should be censured (*Matter of Land*, 299 AD2d 83 [2002] [public censure for non-intentional misappropriation and commingling, notary violation; extensive pro bono work, prompt restitution, genuine remorse, cooperation and depression]; *Matter of Lubell*, 285 AD2d 267 [2001] [public censure for mishandling of clients' funds and improper record keeping, notwithstanding prior Admonition, where conduct aberrational and non-venal]).

Based upon the admitted misconduct, the Hearing Panel's determination which concurred with the Referee's findings of fact

and conclusions of law should be confirmed. With regard to sanction, in light of the unintentional nature of the misconduct, the lack of personal gain or harm to his clients, the substantial evidence in mitigation including learning from his attorney the proper way to maintain an escrow account, and the applicable precedent, a public censure is appropriate.

Accordingly, the Committee's motion for an order confirming the Hearing Panel's findings and conclusions, based upon the Referee's report, should be granted and respondent publicly censured.

All concur.

Order filed.

PM ORDERS

ENTERED

OCTOBER 19, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 19, 2010.

Present - Hon. David Friedman, Justice Presiding,
Eugene Nardelli
Leland G. DeGrasse
Helen F. Freedman
Sallie Manzanet-Daniels, Justices.

-----x
Catholic Mutual Relief Society of M-4316
America, doing business as Catholic M-4327
Mutual Group and The Church of M-4576
St. Bernard,
Plaintiffs-Respondents, New York County
Index No. 110703/08

-against-

Lexington Insurance Company and
Family Services of Westchester, Inc.,
Defendants-Appellants.

-----x
Supreme Court of the State of New York
County of Westchester
- - - - -
Javier Godinez,
Plaintiff, Westchester County
Index No. 07-08468

-against-

Church of St. Bernard,
Defendant.

-----x
An appeal having been taken from the order and judgment (one paper) of the Supreme Court, New York County entered on or about April 15, 2010, as amended on April 15, 2010 which, inter alia, directed appellant Insurer to defend plaintiffs as additional insureds under a policy issued by appellant to defendant Family Services of Westchester, Inc., in the action entitled *Gordinez v Church of St. Bernard*, Supreme Court, Westchester County, Index No. 07-08468,

And plaintiffs-respondents having moved for an order of this Court directing appellants to expeditiously perfect the aforesaid appeal (M-4316),

And defendant-appellant Family Services of Westchester, Inc., having moved for an order of this Court staying all proceedings in this action and in the underlying Westchester action *Godinez v Church of St. Bernard*, Index No. 07-08468, pending hearing and determination of the aforesaid appeal (M-4327),

And defendant-appellant Lexington Insurance Company having cross-moved for an order of this Court declaring that the enforcement of the judgment from which the appeal has been taken has been automatically stayed, pursuant to CPLR 5519(a)(2) by the filing of an undertaking in the amount of the monetary portion of said judgment or, in the alternative, for a discretionary stay of the enforcement of said judgment pending hearing and determination of the appeal taken therefrom (M-4576),

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 plaintiffs' motion seeking an expeditious appeal is denied (M-4316). The motion by defendant-appellant Family Services of Westchester, Inc. for a stay of proceedings in the Westchester County action *Godinez v Church of St. Bernard*, Index No. 07-08468 is denied, and the interim order of a Justice of this Court dated August 24, 2010 is herewith vacated. The cross motion by defendant-appellant insurer Lexington Insurance Company is granted only to the extent of declaring that only the monetary portion of the judgment appealed from has been stayed by the posting of an the undertaking, and the cross motion is otherwise denied (M-4576).

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 October 19, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
Eugene Nardelli
James M. McGuire
Sallie Manzanet-Daniels, Justices.

-----X
Horizon Asset Management, Inc.,
Plaintiff-Respondent,

-against-

M-4832
Index No. 602509/08

Raymond V. Duffy, individually and
derivatively on behalf of Horizon
Asset Management Services, LLC,
Defendants/Counterclaim
Plaintiffs-Appellants,

-against-

Murray Stahl and Horizon Asset
Management Services LLC,
Counterclaim Defendants-Respondents.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 16, 2010,

And plaintiffs-appellants having moved for leave to have the record on appeal and appellate briefs filed under seal,

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 October 19, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David Friedman
James M. Catterson
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X

Schneider, Kleinick, Weitz &
Damashek as successor in interest
to Schneider, Kleinick, Weitz,
Damashek & Shoot,
Plaintiffs-Respondents,

-against-

M-4790
Index No. 114518/09

Howard A. Suckle, Esq. and
Shaub, Ahmuty, Citrin & Spratt, LLP,
Defendants-Appellants.

-----X

Defendant-appellant Howard A. Suckle 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 July 9, 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 continuing interim relief granted by an order of a Justice of this Court dated September 23, 2010.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 19, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,
David B. Saxe
James M. Catterson
Dianne T. Renwick
Leland G. DeGrasse, Justices.

-----X

In the Matter of the Estate
of H. Kenneth Ranftle,
Deceased,

Richard R. Ranftle,
Petitioner-Appellant,

J. Craig Leiby,
Respondent-Respondent.

-----X

M-4786

M-4917

Index No. 4585/08

An appeal having been taken to this Court by the above-named appellant from an order of the Surrogate's Court, New York County, entered on or about July 27, 2010,

And proposed amicus curiae City of New York having moved (M-4786) for leave to appear amicus curiae in connection with the aforesaid appeal,

And proposed amicus curiae New York City Bar Association having separately moved (M-4917) for leave to appear amicus curiae in connection with the aforesaid appeal,

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

It is ordered that the motions (M-4786/M-4917) are granted to the extent of deeming the amicus curiae briefs submitted with the moving papers herein as filed.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 19, 2010.

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

-----X

Charles Udoh,
Plaintiff-Appellant,

-against-

Inwood Gardens, Inc., et al.,
Defendants-Respondents.

M-4162
Index. No. 126690/02

-----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 August 4, 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, with leave to renew upon submission of a copy of the notice of appeal from the judgment duly entered with respect to the above-captioned 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 October 19, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,
Rolando T. Acosta
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Anthony Charnota,
Plaintiff-Appellant,

-against-

M-4850
Index No. 101247/07

Ver-Tech Elevator Co., et al.,
Defendants-Respondents.
-----X

Defendants-respondents having moved to adjourn the appeal from an order of the Supreme Court, New York County, entered on or about June 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 adjourning the aforesaid 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 October 19, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Rolando T. Acosta
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Ivan Coneo,
Plaintiff-Respondent,

-against-

M-5017
Index No. 16463/00

Washington Heights Hellenic Orthodox
Church, Inc.,
Defendant-Appellant,

St. Spyridon Greek Orthodox Church,
Defendant.

-----X

Defendant-appellant having moved for an order staying the trial in the above-entitled action pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about June 8, 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 upon the same terms and conditions as contained in the interim order of a Justice of this Court dated October 6, 2010.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 19, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Rolando T. Acosta
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
GS Plasticos Limitada,
Plaintiff-Respondent,

-against-

M-4846
Index No. 650242/09

Bureau Veritas (BVSA),
Defendant-Appellant,

Bureau Veritas Consumer Products
Services, Inc. (BVCPS),
Defendant,
Appellant.

-----X
(And other actions)

An appeal having been perfected by defendant-appellant, Bureau Veritas (BVSA), from the order of the Supreme Court, Bronx County, entered on or about April 21, 2010 (mot. seq. no. 003),

And appeals and cross appeals having been taken by the above-named parties from other orders of said Court,

And plaintiff having moved for consolidation of the aforesaid appeals and cross appeals with the perfected appeal herein,

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 consolidation is denied and the Clerk is directed to maintain the perfected appeal from the order of Supreme Court, entered on or about April 21, 2010 (mot. seq. no. 003) on the Court's calendar for hearing in the December 2010 Term.

ENTER:

A handwritten signature in black ink, appearing to read "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 October 19, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
James M. Catterson
Karla Moskowitz
Rosalyn H. Richter, Justices.

-----X
Republic Mortgage Insurance Company
and Republic Mortgage Insurance
Company of North Carolina,
Plaintiffs-Appellants,

-against-

M-4613
Index No. 603915/09

Countrywide Financial Corporation,
Countrywide Home Loans, Inc., The
Bank of New York Mellon Trust Company,
N.A., BAC Home Loan Servicing, LP,
and Bank of America, N.A., as
successor in interest to Countrywide
Bank, N.A.,
Defendants-Respondents.

-----X

Plaintiffs-appellants having moved for a stay of arbitration proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about July 27, 2010, or for alternative 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

OCTOBER 21, 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 October 21, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
Rolando T. Acosta
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
Super Nova 330, LLC,
Plaintiff-Appellant,

-against-

M-4351
Index No. 117155/07

Municipal Partners, LLC and
Brian Kelly,
Defendants-Respondents.

-----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 23, 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 October 21, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David Friedman
James M. Catterson
Diane T. Renwick
Sallie Manzanet-Daniels, Justices.

-----x
Cynthia Olivaria, et al., etc.,
Plaintiffs-Respondents,

-against-

Lin & Son Realty Corp.,
Defendant-Appellant,

M-4475
M-4480
Index No. 7492/02

-and-

922 Third Avenue, LLC., et al.,
Defendants.

-----x

An appeal having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about February 5, 2010,

And defendant-appellant having moved for a stay of enforcement of a money judgment pending hearing and determination of the aforesaid appeal (M-4475),

And plaintiffs-respondents having cross-moved for sanctions and the imposition of attorneys fees against defendant-appellant (M-4480),

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

It is ordered that the motion is granted on condition the appeal is perfected for the January 2011 Term with special dates. Appellant's brief to be served and filed on or before November 15, 2010. Respondent's brief to be filed on or before December 15, 2010 and the reply brief, if any, to be served and filed on or before December 27, 2010 for said Term. The cross motion (M-4480) is denied.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
David Friedman
James M. Catterson
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----x

Jennifer Peck Barnett,
Plaintiff-Appellant,

-against-

M-4816

M-4965

Index No. 350337/04

Craig Barnett,
Defendant-Respondent.

-----x

An order of this Court having been entered on September 14, 2010 (M-3522), deeming plaintiff's motion as one for leave to appeal to this Court and for related relief, and granting said application,

And a further order of this Court having been entered on September 14, 2010 (M-3522A/M-3766), inter alia granting plaintiff-appellant a stay of the interim order of the Supreme Court, New York County entered on or about July 9, 2010, on condition the appeal be perfected for the December 2010 Term,

And plaintiff-appellant having moved for an order enlarging the record on appeal or, in the alternative, for a continued stay on condition the appeal be perfected for the January 2011 Term (M-4816),

And defendant-respondent having cross-moved for dismissal of the appeal (M-4965),

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-4816) is granted on condition the appeal is perfected for the January 2011 Term, with special dates. The record and brief are to be served and filed on or before November 15, 2010, the respondent's brief to be served and filed on or before December 15, 2010, and the reply

brief, if any, to be served and filed on or before December 27, 2010 for said Term. The record on appeal is enlarged to include exhibits D, E, and F to the moving papers. The cross motion is denied, without prejudice to defendant raising the issue directly on the appeal.

ENTER:

A handwritten signature in black ink, reading "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 October 21, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
The United States Life Insurance
Company in the City of New York,
Plaintiff-Respondent,

-against-

M-4413
Index No. 600550/07

Lazar Grunhut, Trustee of Piri
Grunhut 2004 B Irrevocable Life
Insurance Trust and Piri Grunhut,
Defendants-Appellants.

-----X

Defendants-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 September 29, 2009 (mot. seq. no. 012),

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 October 21, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
Rolando T. Acosta
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Estate of Gertrude Steingart, Diane
Steingart as Personal Representative,
Plaintiff-Respondent,

M-4601
Index No. 120875/03

-against-

Barbara Hoffman,
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 17, 2010,

And defendant-appellant having moved for an order striking plaintiff-respondent's brief and for the imposition of certain sanctions against plaintiff-respondent,

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 plaintiff-respondent to physically excise Point IV of the Respondent's brief as well as Pages 14 through 20 of the Respondent's Appendix, correct the respective table of contents to reflect said deletions and the motion is otherwise denied without prejudice to defendant raising her objections and request for the imposition of certain sanctions against plaintiff-respondent at the time of argument. The Clerk is directed to maintain said appeal on the Court's calendar for hearing in 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 October 21, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,
Rolando T. Acosta
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Matthew DeVine, as Administrator of
the Estate of Thomas DeVine, Deceased,
Plaintiff,

-against-

M-4831
Index No. 104375/07

Saad Hacking Corp. and Mohsin Syed,
Defendants.
-----X

Defendants having moved for a stay of trial pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about September 21, 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.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 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 Application of

The People of the State of New York,
ex rel. Dominic Larocco,
Petitioner,

M-3966
Index No. 341142/09

For a Judgment Pursuant to Article
78 of the CPLR,

-against-

Warden, Rikers Island and New York
State Division of Parole,
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, Bronx County, entered on or about May 18, 2010,

And petitioner having moved for leave to prosecute the proceeding as a poor person, upon the original record and reproduced petitioner's brief, and for the 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 permitting the proceeding to be heard on the original record and upon a reproduced petitioner's brief, on condition that petitioner serves one copy of such brief upon the Attorney General of the State of New York and files 8 reproduced copies of such brief, together with the original record, with this Court. Petitioner is permitted to dispense with payment of the required fee for the subpoena and filing of the record.

Pursuant to Section 35 of the Judiciary Law, Steven
Feinman, Esq., 19 Court Plaza, Suite 201, White Plains, New York
10601, Telephone No. (914) 949-8214, is assigned as counsel for
appellant for purposes of the appeal. Counsel is directed to
perfect the appeal in accordance with Rule 600.18 of this Court.

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 21, 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 Application of Daniel Z. Rapoport and Richard Nadelman, executors of the Estate of Boris Lurie, Petitioners-Respondents,

for a determination as to the validity, construction and effect of the Last Will and Testament of

M-4090
Index No. 666/08

Boris Lurie,
Deceased,

American Friends of New Communities of Israel, Inc. (AFNCI), Amana and Organization for Assistance and Rehabilitation of the Refugees from Gush Katif and Northern Shomron (Gush Katif),
Proposed Intervenors-Appellants,

Attorney General of the State of New York,
Respondent.

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An appeal having been taken from a decree of the Surrogates Court, New York County, entered on or about May 10, 2010,

And proposed intervenors-appellants having moved to enlarge the record on appeal consisting of a subsequent petition and papers related thereto annexed as exhibits C through G inclusive 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.