

At a 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 28, 2010.

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

-----X  
Betty Frett,

Plaintiff-Respondent,

-against-

M-4808X  
Index No. 20044/03

Dr. Samuel Ruddick, DDS, et al.,

Defendants-Appellants.  
-----X

An appeal having been taken from the judgment of the Supreme Court, Bronx County, entered on or about February 24, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 23, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

*David Apokony*  
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 28, 2010.

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

-----X  
U.S. Bank National Association as  
Trustee Under Pooling and Servicing  
Agreement,  
Plaintiff-Respondent,

-against-

M-4778X  
Index No. 380198/09

Emma Etokakpan,  
Defendant-Appellant.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about December 24, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 21, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 28, 2010.

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

-----X  
Apple Bank for Savings,  
Plaintiff-Respondent,

-against-

M-4777X  
Index No. 603492/06

PricewaterhouseCoopers LLP,  
Defendant-Appellant.  
-----X

Appeals having both been taken from orders of the Supreme Court, New York County, entered on or about November 2, 2009, (mot. seq. nos. 002, 003), respectively,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 22, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are 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 28, 2010.

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

-----X  
Keith Miller, Laurence Miller,  
Robert Cope and Breakout Trading, LLC,  
Plaintiffs-Appellants,

-against-

M-4780X  
Index No. 603066/09

Bruce Katzen, et al.,  
Defendants-Respondents.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about May 3, 2010, and the judgment of said Court entered thereon on or about May 12, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 22, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are 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 28, 2010.

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

-----X  
Alan Eimer and Judy Eimer,  
Plaintiffs-Respondents,

-against-

M-4962X  
Index No. 112196/06

731 Commercial LLC, Bloomberg, L.P.,  
Structure-Tone, Inc., Bovis Lend  
Lease LMB, Inc.,  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 19, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 5, 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 28, 2010.

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

-----X  
Dennis M. Strong,  
Plaintiff-Appellant,

-against-

M-4963X  
Index No. 313267/07

Christina M. Strong,  
Defendant-Respondent.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 2, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 4, 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 28, 2010.

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

-----X  
Manuel Nunez, et al.,  
Petitioners,

-against-

M-5020X  
Index No. 260031/09

Luis A. Nunez, et al., etc.,  
Respondents.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about November 2, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 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 28, 2010.

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

-----X  
Kimberly Daniels and Donelle Johnson,  
Plaintiffs,

-against-

M-4726X  
Index No. 20267/07

Nobile Taxi Corp., et al.,  
Defendants.

-----X

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

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

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X  
Scott Tamburrino,

Plaintiffs-Respondent,

-against-

M-5082X  
Index No. 6804/09

Bed, Bath & Beyond, Inc. and Elmsford  
119 Associates, LLC,

Defendants-Appellants.  
-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about December 24, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 12, 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 28, 2010.

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

-----X  
Daimlerchrysler Insurance Company,  
Plaintiff-Appellant/Respondent,

-against-

Universal Underwriters Insurance  
Company,

Defendant-Respondent/Appellant.  
-----X

M-5069X  
Index No. 601238/08

Appeals having been taken from the order of the Supreme Court, New York County, entered on or about April 16, 2010 (mot. seq. nos. 001, 002),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 7, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are 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 28, 2010.

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

-----X  
Edward Martinez,  
Plaintiff-Respondent,

-against-

M-4966X  
Index No. 20444/08

Norwax Associates, Inc. and  
Elliot Place Properties, Inc.,  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx 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" October 4, 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 28, 2010.

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

-----X  
Oscar Cuevas and Marina Cuevas,  
Plaintiffs-Respondents,

-against-

M-4412X  
Index No. 111144/07

Elaine Kaufman Cultural Center,  
et al.,  
Defendants-Appellants.

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

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 13, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" August 30, 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 28, 2010.

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

-----X  
Hartford Insurance Company,  
Petitioner-Appellant,

-against-

M-5064X  
Index No. 260140/08

Gloria Jenkins,  
Respondent-Respondent,

State Farm Mutual Automobile  
Insurance Company and Nicole T.  
Deverna,  
Proposed Additional Respondents.  
-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about January 6, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 7, 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 28, 2010.

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

-----X  
Leonard Klingbaum,  
Plaintiff-Appellant,

-against-

M-4728X  
Index No. 305811/09

Florina Klingbaum,  
Defendant-Respondent.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 8, 2010,

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

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X  
Gruppo Levey & Co.,  
Plaintiff-Appellant,

-against-

M-4783X  
Index No. 108647/09

New Catalyst Fund LLC and John E.  
Herman,  
Defendants-Respondents.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 13, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 21, 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 28, 2010.

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

-----X  
Lennar Corporation,  
Petitioner-Respondent,

-against-

M-4697X  
Index No. 600662/10

Workscape, Inc.,  
Respondent-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 22, 2010,

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

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X  
Michelle Edelstein,  
Plaintiff-Respondent,

-against-

M-5019X  
Index No. 313371/09

Ronald Edelstein,  
Defendant-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 15, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 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 28, 2010.

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

-----X  
Ted Tai-Sen Lin and Sharon Chang,  
Plaintiffs-Respondents,

-against-

M-5021X  
Index No. 107546/09

245 10<sup>th</sup> Avenue, LLC and Smith Buss &  
Jacobs, LLP,  
Defendants-Appellants.

-----X

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

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 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 28, 2010.

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

-----X  
In the Matter of

Tamek S.,

A Person Alleged to be a Juvenile  
Delinquent,

M-4572

Docket No. D-50976/09

Respondent.  
-----X

An appeal having been taken from the order of the Family Court, New York County, entered on or about February 3, 2010,

Now, upon reading and filing the correspondence from appellant's counsel dated September 1, 2010, and appellant's statement dated August 23, 2010, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X  
Catherine Ryans,  
Plaintiff-Respondent,

-against-

M-4727X  
Index No. 16336/05

Riverbay Corporation,  
Defendant-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx 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 20, 2010, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X  
Akua Aso Ampen,  
Plaintiff-Respondent,

-against-

M-4774X  
Index No. 302026/07

Jeffrey R. Duran, et al.,  
Defendants-Appellants.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about December 3, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 21, 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 28, 2010.

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

-----X  
Hardat Dyal,  
Plaintiff-Respondent,

-against-

M-4776X  
Index No. 300762/08

Queens Children Transportation Corp.  
and Johnny McCullough,  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about November 24, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 23, 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 28, 2010.

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

-----X  
Dong Wan Joo and On Kyung Joo,  
Plaintiffs-Respondents,

-against-

M-4779X  
Index No. 113591/05

Nicole M. Cho, et al.,  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about February 10, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 21, 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 28, 2010.

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

-----X  
John Kapon,  
Plaintiff-Respondent,

-against-

M-4781X  
Index No. 304275/09

Teona Kapon,  
Defendant-Appellant.  
-----X

An appeal having been taken from the 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 22, 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 28, 2010.

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

-----X  
Wanda J. Gil,  
Plaintiff-Respondent,

-against-

M-4809X  
Index No. 17201/07

Saifur Rahman and Mohammed Hossain,  
Defendants-Appellants.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about December 15, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 23, 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 28, 2010.

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

-----X  
Independent Welding Supply Corp.,  
Plaintiff-Respondent,

-against-

M-4810X  
Index No. 8212/07

Econocraft Worldwide Mfg., Inc.,  
Defendant-Appellant.  
-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about July 7, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 23, 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 28, 2010.

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

-----X  
The Big Four LLC,  
Plaintiff-Appellant,

-against-

M-4856X  
Index No. 600119/10

The Bond Street Lofts Condominiums,  
Defendants-Appellants.  
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about February 5, 2010

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 27, 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 28, 2010.

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

-----X  
Benjamin B. Canty,  
Plaintiff-Respondent,

-against-

M-4858X  
Index No. 104751/07

Paul J. Williams, Jean Lucas, Ibra  
Niang, Sophie Graham and the City  
of New York Office of the Mayor,  
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about June 25, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 28, 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 28, 2010.

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

-----X  
Carol Anne Herlihy,  
Plaintiff-Appellant,

-against-

M-4782X  
Index No. 120032/02

79 Warren Associates LLC, et al.,  
Defendants-Respondents.  
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about March 8, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 22, 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 28, 2010.

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

-----X  
Stephen Sicilia,  
Plaintiff,

-against-

M-4961X  
Index No. 103443/03

City of New York, et al.,  
Defendants.

-----X  
(And Other Actions)  
-----X

Appeals and third-party/second third-party and third third-party actions having been taken from the order of the Supreme Court, New York County, entered on or about December 4, 2009 (mot. seq. No. 012),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, dated September 17, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are 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 28, 2010.

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

-----X  
JDF Realty, Inc.,  
Plaintiff-Respondent,

-against-

M-5066X  
Index No. 111701/09

Brian Kim, et al.,  
Defendants-Appellants.  
-----X

Appeals having been taken from the order and judgment of the Supreme Court, New York County, entered on or about May 14, 2010 and June 3, 2010, respectively,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 8, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are 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 28, 2010.

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

-----X  
Sterling C. Stokes,  
Plaintiff-Respondent,

-against-

M-4732  
Index No. 112409/07

The City of New York and The New  
York City Department of Environmental  
Protection,  
Defendants-Appellants.

-----X

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about January 18, 2010 and January 19, 2010, respectively,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, dated July 15, 2010, and due deliberation having been had thereon,

It is ordered that the appeals, previously perfected for the June 2010 Term, are 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 28, 2010.

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

-----X  
John Breceovich,  
Plaintiff-Respondent,

-against-

M-5099  
Index No. 107613/08

Horizons Investors Corporation and  
Warminster Investments Corp.,  
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 4, 2009 (mot. seq. no. 001),

Now, upon reading and filing the stipulation of the parties hereto, dated October 13, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the September 2010 Term, 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 28, 2010.

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

-----X  
Brentwood Pain & Rehabilitation  
Services, P.C. and Hempstead Pain and  
Medical Services, P.C.,  
Plaintiffs,

-against-

M-4992  
Index No. 109805/04

Progressive Insurance Company, et al.,  
etc.,  
Defendants-Appellants.

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

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about November 4, 2009 (mot. seq. No. 007) and the order and judgment (one paper) of said Court entered on or about March 23, 2010, respectively,

Now, upon reading and filing the stipulation of the parties hereto, filed October 6, 2010, and due deliberation having been had thereon,

It is ordered that the appeals, previously perfected for the September 2010 Term, are withdrawn in accordance with the aforesaid stipulation.

ENTER:

*David Spolony*  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X  
Paul Garcia,  
Plaintiff-Respondent,

-against-

M-4615  
Index No. 106895/06

Berns DeKajlo & Castro, DeKajlo Law  
Offices, Lloyd M. Berns, Esq. Eugene  
Castro, Esq. and Oleh N. DeKajlo, Esq.,  
Defendants,

-and-

Harry Issler and Harry Issler, PLLC,  
Defendants-Appellants.

-----X

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

Now, upon reading and filing the stipulation of the parties hereto, dated August 31, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the September 2010 Term perfected, 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 28, 2010.

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

-----X  
Pali Capital, Inc., a Delaware Corporation on its own behalf and as express agent for selected Investors/Lenders,  
Plaintiff-Respondent,

-against-

M-4651  
Index No. 105472/07

Reitler, Brown & Rosenblatt, LLC a New York Limited Liability Company;  
Gary Schonwald and Leo Silverstein,  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about September 29, 2009 (mot. seq. no. 005)

Now, upon reading and filing the stipulation of the parties hereto, dated September 13, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the September 2010 Term, 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 28, 2010.

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

-----X  
Elena Xenarios,  
Plaintiff-Respondent,

-against-

M-5068  
Index No. 117061/06

Samuel Isshak and Atif Javed,  
Defendants-Appellants.  
-----X

An appeal and cross appeal having been taken from a judgment of the Supreme Court, New York County, entered on or about May 1, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated September 30, 2010, and due deliberation having been had thereon,

It is ordered that the appeal and cross appeal, previously perfected for the November 2010 Term, are 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 28, 2010.

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

-----X  
Arsenio Ama, an infant under the age  
of 18 years, by his mother and natural  
guardian, Katie Bullock and Katie  
Bullock, Individually,  
Plaintiffs-Respondents,

-against-

M-5045  
Index No. 13801/04

Samuel Mensah, M.D., Harvey Levitan,  
M.D., Harvey Levitan, M.D., P.C.,  
Melissa Liebling, M.D. and Baron S.  
Lonner, M.D.,  
Defendants,

-and-

Arnold B. Wilson, M.D., Central Bronx  
Orthopaedic Group, P.C. and Montefiore  
Medical Center,  
Defendants-Appellants.

-----X  
Appeals having been taken from orders of the Supreme Court, New York County, entered on or about July 10, 2009 and March 17, 2010, respectively,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, dated October 5, 2010, and due deliberation having been had thereon,

It is ordered that the appeals, previously perfected for the September 2010 Term are 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 28, 2010.

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

-----X

Franklyn Gaucher,  
Plaintiff,

-against-

M-4698X  
Index No. 110964/05

By Design Associates, Inc.,  
et al.,  
Defendants.

-----X

(And Another Action)

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 12, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 17, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the November 2010 Term, 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 28, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
David Friedman  
James M. McGuire  
Sheila Abdus-Salaam, Justices.

-----X  
George Heath,  
Plaintiff-Appellant,

-against-

M-3420  
Index No. 40555/78

John S. Wojtowicz, et al.,  
Defendants-Respondents.  
-----X

An appeal having been taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about June 9, 2009, and said appeal having been dismissed by the decision and order of this Court entered on April 1, 2010 (Appeal Nos. 2477-2477A),

And plaintiff-appellant having moved for an order remanding the matter to Supreme Court, New York County, for further consideration,

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

Ordered that the motion is denied, without prejudice to further proceedings before said Supreme Court, New York County.

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 28, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
John W. Sweeny, Jr.  
James M. Catterson  
Dianne T. Renwick, Justices.

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

-against-

M-4350  
Ind. No. 5083/07

Dwayne Faulkner,  
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 February 18, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 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 28, 2010.

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

-----X  
Emma Serafin,  
Plaintiff-Appellant,

-against-

M-4526  
Index No. 260125/08

Percy Dickerson, Dorothy Dickerson,  
Anna Dickerson, Randolph Dickerson  
and Merced Antoine Dickerson,  
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from a judgment of the Supreme Court, Bronx County, entered on or about December 14, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the 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 28, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
Eugene Nardelli  
Rolando T. Acosta  
Sheila Abdus-Salaam, Justices.

-----X  
Christian Altamirano,

Plaintiff-Appellant,

-against-

M-4472  
Index No. 400888/04

Door Automation Corp.,

Defendant-Respondent.  
-----X

Defendant-respondent having moved for reargument of the decision and order of this Court entered on August 3, 2010 (Appeal No. 2233),

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 28, 2010.

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

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

-against-

M-4377  
Ind. No. 1360/09

Vaselios Giamagas,  
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 February 25, 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 28, 2010.

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

-----X  
Vistra Trust Company (Jersey) Limited as  
Trustee of the Alsam, Colleen and Logany  
Settlements, Colleen Investment AG, Alsam  
Holding AG, Penny Asset AG, Logany Equity  
AG, Vierwaldstatter Beteiligungen AG,  
Clarick AG, Colleen Investment, L.L.C.,  
Logany L.L.C. and William Tacon, Receiver  
and Manager of the Assets of Maytown  
Universal SA and Plympton Universal SA,  
Plaintiffs-Respondents,

M-4455  
Index No. 116985/07

-against-

Dr. Marco Stoffel, Albe Associates  
Limited, Bluecolt Securities Corporation,  
Lauramca Holdings, L.L.C. and John Does  
1-10,  
Defendants-Appellants.

-----X

Plaintiffs-respondents having moved for dismissal of the appeal taken from judgment of the Supreme Court, New York County, entered on or about May 7, 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 and the appeal is dismissed.

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 28, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Richard T. Andrias  
Rolando T. Acosta  
Diane T. Renwick  
Sheila Abdus-Salaam, Justices.

-----x  
Irving Sitnick, Individually and as  
father and natural guardian of  
Samuel Sitnick, an infant,  
Plaintiffs-Appellants-Respondents,

-against-

Travelers Insurance Company,  
Defendant-Respondent-Appellant,

M-4133  
Index No. 110531/07

-and-

Matthew Crayne, an infant by his  
mother and natural guardian, Cynthia  
Crane, and Cynthia Crane, Individually,  
Defendants.

-----x

An appeal and a cross appeal having been taken to this Court from the order of the Supreme Court, New York County entered on or about June 18, 2009, and said appeals and cross appeal having been perfected,

And The Automobile Insurance Company of Hartford, Connecticut, sued herein as Travelers Insurance Company, having moved to dismiss the appeal and to strike the "brief for defendants-respondents" filed on behalf of the Crayne defendants, 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 granted to the extent of dismissing the appeal taken by the Crayne defendants, and the brief filed on their behalf is stricken.

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 28, 2010.

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

-----X  
Joyce Henderson,  
Plaintiff-Respondent,

-against-

M-3321  
Index No. 15851/06

Manhattan and Bronx Surface Transit  
Operating Authority, et al.,  
Defendants-Appellants,

City of New York, et al.,  
Defendants.

-----X

Defendants-appellants, Manhattan and Bronx Surface Transit Operating Authority and John H. Williams, having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on June 24, 2010 (Appeal No. 2111N),

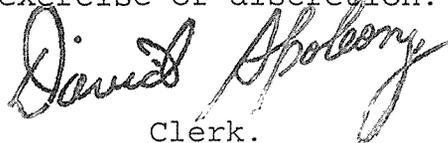
Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion, to the extent it seeks reargument, is denied. So much of the motion which seeks leave to appeal to the Court of Appeals is granted, and this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

"Was the order of Supreme Court, as affirmed by this Court, properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

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 28, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
Eugene Nardelli  
James M. McGuire  
Karla Moskowitz, Justices.

-----X  
In re Zachary M. Berman,

Petitioner-Appellant,

-against-

M-3810  
Index No. 260535/07

State of New York Division of Housing  
and Community Renewal,

Respondent-Respondent.  
-----X

Petitioner-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on April 22, 2010 (Appeal No. 2608),

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 28, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. Catterson  
James M. McGuire  
Rolando T. Acosta, Justices.

-----X  
S.M. Pires,  
Plaintiff,

-against-

M-3567  
Index No. 1453/06

Frota Oceanica Brasileira, S.A.,  
Defendant,

Galveston Wharves, doing business  
as Port of Galveston, et al.,  
Defendants.

-----X

An order of this Court having been entered on June 15, 2010 (M-279), denying plaintiff's motion to vacate the order of this Court entered on December 10, 2009 (M-4339), inter alia, dismissing plaintiff's consolidated appeals,

And plaintiff having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the aforesaid order of this Court entered on June 15, 2010 (M-279), and for other relief,

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

It is ordered that the motion is denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X  
Michael Small,

Plaintiff-Respondent,

-against-

M-4911  
Index No. 304218/08

Pathe Diop and Muspass Cab Corp.,

Defendants-Appellants.  
-----X

Defendants-appellants 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 30, 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 28, 2010.

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

-----X  
Gary Don, et al.,

Plaintiffs-Respondents,

-against-

M-3177

Index No. 105584/06

Baruch Singer, et al.,

Defendants,

855 Realty Owner LLC,

Non-Party Appellant.  
-----X

Non-party appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 20, 2010 (Appeal No. 2855),

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 28, 2010.

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

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

- - - - -  
Commissioner of Social Services, M-2874  
on behalf of Maudlyn V.R., Docket No. F16375/04  
Petitioner-Respondent,

-against-

Paul C.,  
Respondent-Appellant.

-----X

Respondent-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 11, 2010 (Appeal No. 1917 and 1917A),

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 reargument, is denied. So much of the motion which seeks leave to appeal to the Court of Appeals is granted, and this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

"Was the order of the Family Court, as affirmed by this Court, properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

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 28, 2010.

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

-----X  
Garvey Rich,  
Plaintiff-Respondent,

-against-

East 10<sup>th</sup> Street Associates LLC, etc.,  
et al.,  
Defendants,

M-4461  
Index No. 113867/07

256 East 10<sup>th</sup> Street NY, LLC  
Defendant-Appellant.

-----  
Community Housing Improvement  
Program, Inc.,  
Amicus Curiae  
-----

Christopher Scott,  
Plaintiff-Respondent,

-against-

M-4577  
Index No. 100469/08

Rockaway Pratt, LLC,  
Defendant-Appellant.

-----  
Community Housing Improvement  
Program, Inc.,  
Amicus Curiae.  
-----X

Plaintiff-respondent Garvey Rich having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on July 27, 2010 (Appeal No. 2311) [M-4461],

And plaintiff-respondent Christopher Scott having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on July 27, 2010 (Appeal No. 2312) [M-4577], and for leave to pursue said relief as a poor person,

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

It is ordered that the motions are granted, and this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

"Was the decision and order of this Court, which modified the order of the Supreme Court, properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

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 28, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
David Friedman  
Eugene Nardelli  
Rolando T. Acosta  
Sheila Abdus-Salaam, Justices.

-----X  
William I. Koch,

Plaintiff-Respondent,

-against-

Acker, Merrall & Condit Company,

Defendant-Appellant.  
-----X

M-3382  
Index No. 601220/08

Plaintiff-respondent having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 27, 2010 (Appeal No. 2902),

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 28, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta  
Nelson S. Román, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-4397  
Ind. No. 6691/03

Louie Fragosa,

Defendant-Appellant.

-----X

Counsel for defendant-appellant having moved to dismiss the appeal from the judgement of resentence of the Supreme Court, New York County, rendered on or about August 6, 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 deeming the appeal withdrawn.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X

The People of the State of New York,  
Respondent,

-against-

M-4341  
Ind. No. 826/02

Paul J. Vasquez,  
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 denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources 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:

  
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 28, 2010.

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

-----X

The People of the State of New York,

Respondent,

-against-

M-4333  
Ind. No. 2420/09

Edwin Hernandez,

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 July 26, 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 defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources to post the \$10,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
Clerk.

At a 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 28, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta  
Nelson S. Román, Justices.

-----X  
Daniel Hernandez and Rosalinda  
Pichardo,  
Plaintiffs-Respondents-Respondents,

-against-

M-4498  
Index No. 125067/00

Ten Ten Company, also known as  
1010 Company, et al.,  
Defendants-Respondents,

Prudential Securities Incorporated,  
Defendant-Respondent-Appellant.

-----X  
The 1010 Company, L.P., etc.,  
Third-Party Plaintiff-Respondent,

-against-

Third-Party  
Index No. 590928/01

Prudential Securities Incorporated,  
Third-Party Defendant-Respondent-  
Appellant.

-----X  
Schmergel Construction Corp.,  
Second Third-Party Plaintiff-  
Respondent-Respondent,

-against-

M-4479  
Second Third-Party  
Index No. 459038/04

Roland's Electric,  
Second Third-Party Defendant-  
Appellant-Respondent.

-----X

Defendant/third-party defendant-respondent-appellant, Prudential Securities Incorporated, having moved for an enlargement of time in which to perfect the appeal taken from the order of the Supreme Court, New York County, entered on or about January 6, 2010 (mot. seq. nos. 020, 021, 022, 023) (M-4498),

And second third-party defendant-appellant-respondent, Roland's Electric, having moved for the same relief (M-4479),

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

It is ordered that the motions are granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the March 2011 Term. The attention of the parties is directed to Rule 600.11(d) with respect to a joint record and costs thereof.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

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

-----X  
James Williams,

Plaintiff-Appellant,

-against-

M-3922  
Index No. 104676/07

The City of New York, et al.,

Defendants-Respondents.  
-----X

Plaintiff-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on June 15, 2010 (Appeal No. 3030),

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 28, 2010.

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

-----X  
Coastal Sheet Metal Corp., et al.,

Plaintiffs-Appellants,

-against-

M-3870  
Index No. 13420/03

Harry Vassallo, et al.,

Respondents-Respondents.  
-----X

Plaintiffs-appellants having moved for reargument of the decision and order of this Court entered on July 1, 2010 (Appeal No. 3205),

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 28, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Helen E. Freedman  
Nelson S. Román, Justices.

-----X  
The People of the State of New York  
ex rel. Gilbert O. Cameron,  
Petitioner,

-against-

M-3030  
Ind. No. 2443/08

Dora B. Schirro, Commissioner, New York  
City Department of Corrections, et al.,  
Respondents.  
-----X

Petitioner having moved for (1) leave to appeal to the Court of Appeals from the order of this Court entered on March 9, 2010 (M-5867), transferring petitioner's writ of habeas corpus to the Supreme Court, Bronx County, for hearing and disposition, and (2) for leave to appeal to this Court from an order of a Justice of the Supreme Court, Bronx County, dated on or about May 7, 2010,

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

It is ordered that, so much of the motion which seeks leave to appeal to the Court of Appeals, is denied. So much of the motion which seeks leave to appeal to this Court is granted to the extent of deeming the moving papers a timely filed notice of 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 28, 2010.

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

-----X  
Richard Djeddah,  
Plaintiff-Respondent,

-against-

M-4838  
Index No. 350094/00

Rachel Djeddah,  
Defendant-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 20, 2010 (mot. seq. no. 011),

And an order of this Court having been entered on June 1, 2010 (M-2132), inter alia, denying respondent's motion to dismiss the aforesaid appeal and directing defendant to perfect said appeal on or before September 7, 2010 for the November 2010 Term,

And plaintiff-respondent having moved for an order adjourning the aforesaid purportedly perfected 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 academic, said appeal having not been perfected. Sua sponte, the appeal is dismissed.

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 28, 2010.

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

-----X  
Jacob Ginsburg,  
Plaintiff-Appellant,

-against-

M-4470  
Index No. 600630/08

Douglas Dussel Pritchard also known as Douglas D. Pritchard, also known as Douglas P. Pritchard, Statesville Pain Associates, PLLC, Carolina Pain Consultants, Douglas Dussel Pritchard, MD, PLLC and Robin Pritchard,  
Respondents-Respondents.

-----X

Plaintiff 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 2, 2009 (mot. seq. nos. 003 & 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 granted to the extent of enlarging the time in which to perfect the appeal to the June 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 28, 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 the Application of  
Francisco Velez,  
Petitioner-Appellant,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-4587  
Index No. 101597/09

Raymond Kelly, as Police Commissioner  
of the City of New York and as Chairman  
of the Board of Trustees of the Police  
Pension Fund, Article II, The Board of  
Trustees of the Police Pension Fund II,  
New York City Police Department and the  
City of New York,  
Respondents-Respondents.

-----X

Petitioner-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 October 29, 2009 (mot. seq. no. 002),

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

It is ordered that the motion is granted to the extent of enlarging appellant's time in which to perfect the 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 28, 2010.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Leland G. DeGrasse  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
In re New York City Health and Hospitals Corporation,

Petitioner-Respondent,

-against-

M-4785  
Index No. 403141/08

New York State Commission of Correction,

Respondent-Appellant.  
-----X

Respondent-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on August 17, 2010 (Appeal Nos. 2498N, 2498NA, 2498NB),

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 28, 2010.

Present: Hon. David Friedman, Justice Presiding,  
Eugene Nardelli  
Karla Moskowitz  
Helen E. Freedman  
Sallie Manzanet-Daniels, Justices.

-----X  
Leon Casper,

Plaintiff-Appellant,

-against-

M-4037  
Index No. 600419/06

Cushman & Wakefield,

Defendant-Respondent.  
-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on June 24, 2010 (Appeal No. 2961),

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 28, 2010.

Present: Hon. Eugene Nardelli, Justice Presiding,  
Karla Moskowitz  
Helen E. Freedman  
Sallie Manzanet-Daniels, Justices.

-----X  
In re Rachel Cohn,  
Petitioner-Respondent,

-against-

M-3647

Index No. 108965/08

Board of Education of the City School  
District of the City of New York,  
et al.,  
Respondents-Appellants.

-----X

Petitioner-respondent having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on June 3, 2010 (Appeal No. 2956),

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 this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

"Was the order of this Court, which reversed the order of the Supreme Court, properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

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 28, 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/or Visitation Under  
Article 6 of the Family Court Act.

Sandra H. H.,  
Petitioner-Appellant,

M-3851

Docket No. V15591/09

-against-

Charlie L. H. and Sharonda Arlene A. F.  
and the Administration for Children's  
Services,  
Petitioners-Respondents.

-----  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Law Guardian for the Child.

-----X  
Petitioner-appellant grandmother having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about June 24, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

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

October 28, 2010

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) appellant is directed to perfect this appeal, in compliance with Rule 600.11(b)(2) and (c) of the Rules of this Court, 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. The time in which to perfect the appeal is enlarged to on or before November 8, 2010 for the January 2011 Term.

ENTER:



Clerk

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 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/or Visitation Under  
Article 6 of the Family Court Act.

-----  
Carlos Rafael R.,  
Petitioner-Respondent,

Docket No. V13692/07

-against-

Johanina McC. and the Administration  
for Children's Services,  
Respondents-Appellants.

M-4161

-----X  
In the Matter of

Jose I. R.,

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

-----  
Docket No. NN13324/07

Administration for Children's  
Services,  
Petitioner-Respondent,

Johanina McC.,  
Respondent-Appellant.

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

-----X

Respondent mother having taken an appeal from an order of custody and from an order of neglect of the Family Court, New York County, both entered on or about June 25, 2010,

And petitioner-respondent Agency having moved for an order dismissing the appeal taken from the aforesaid order of custody,

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 respondent mother's appeal taken from the order of custody of the Family Court, New York County, (Docket No. V13692/07) entered on or about June 25, 2010, is dismissed.

ENTER:

  
Clerk.



And respondent, by his attorneys McDonough & McDonough (Chris McDonough, of counsel) having submitted an answer to the petition, seeking the imposition of the sanction of a public censure, but in no event more than the three month sanction recommended by the Hearing Panel,

And the Committee having submitted a reply affirmation to respondent's answer to the petition,

Now, upon reading and filing the papers with respect to the petition, and due deliberation having been had thereon, and upon the Opinion Per Curiam filed herein, it is unanimously,

Ordered that the petition is granted to the extent of confirming so much of the report and recommendation of the Hearing Panel with respect to the findings of fact and conclusions of law, disaffirming the recommended sanction of the Hearing Panel that respondent be suspended for a period of three months, denying the request of the Committee that respondent be suspended for a period of one year, and in any event no less than six months, and it is hereby,

Ordered that respondent is publicly censured.

ENTER:

  
Clerk



M-1746 (April 30, 2010)

IN THE MATTER OF RONALD S. SALOMON, AN ATTORNEY

PER CURIAM

Respondent Ronald S. Salomon was admitted to the practice of law in the State of New York by the First Judicial Department on May 6, 1991. At all times relevant to this proceeding respondent has maintained an office for the practice of law within the First Judicial Department.

On June 19, 2009, the Departmental Disciplinary Committee filed charges against respondent. On July 4, 2009, the Committee filed amended charges alleging 10 Code violations: DR 1-102(A) (7), DR 1-104(C), DR 6-101(A) (3) (six counts) and DR 9-102(C) (4) (two counts), by neglecting immigration/asylum matters and engaging in conduct adversely reflecting on his fitness to practice law.

A Referee held a hearing and, by a report dated October 19, 2009, sustained nine of the charges and recommended a six-month suspension (reduced to five months if respondent refunded the fees paid). By a report dated February 18, 2010, a Hearing Panel confirmed the Referee's findings of fact and conclusions of law, except that it also sustained Charge 10, and recommended only a three-month suspension.

Now, by petition dated March 27, 2010, the Committee seeks an order confirming the Hearing Panel's findings of fact and

conclusions of law and suspending respondent for a period of one year, but not less than six months.

Respondent opposes only the portion of the petition which seeks a sanction greater than the three months recommended by the Panel and asks for the issuance of a public censure.

Since respondent does not challenge the liability findings, the only issue is that of the appropriate sanction to impose. In mitigation, respondent submitted evidence of his reputation in the legal community, his high rate of success (90-95% of cases won on the trial and appellate levels), his dedication to his clients and their satisfaction with his services, the nature of his practice, primarily work with immigrants and asylum seekers, his advocacy on behalf of victims of female genital mutilation (FGM) and his work to have FGM recognized as a basis for seeking asylum, and the notable changes respondent instituted in response to an admonition, including implementation of a computerized calendar system, staff training, and a reduction in caseload, which were designed to, and succeeded in, preventing recurrences of neglect. While nine instances of neglect over a two-year period is not insignificant, the neglect constituted only a small percentage of the 5,000-6,000 cases handled by respondent's office. Further, respondent has fully cooperated with the proceedings, admitted the majority of the charges and factual allegations, and claims to have since made restitution to the

affected clients.

We find that under the circumstances, public censure, rather than suspension, is the appropriate sanction (see *Matter of Lenoir*, 287 AD2d 243 [2001]; *Matter of Erda*, 209 AD2d 147 [1995] [respondent attorney censured for neglect of three matters, misrepresentations regarding the status of those matters, and a failure to cooperate with the Committee, where she had received two prior admonitions for neglect, upon consideration of mitigating circumstances including her psychological condition during the relevant time frame and her substantial volunteer work]; *Matter of Kraft*, 148 AD2d 149 [1989] [respondent attorney censured for neglect of five matters upon consideration of mitigating circumstances including, *inter alia*, high volume, low cost divorce practice, respondent's remorse and the minimal chance of recurrence]).

As recognized by the Panel, the 2007 Admonition is not a true aggravating factor with respect to the neglect charges at issue since the admonition was issued after the subject misconduct had already occurred.

Accordingly, the Committee's motion is granted to the extent of confirming the findings of fact and conclusions of law of the Hearing Panel. The motion is denied to the extent it seeks a three-month suspension. Respondent shall hereby be publicly censured.

All concur.

Order filed.

PM ORDERS

ENTERED

OCTOBER 26, 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 26, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Eugene Nardelli  
James M. McGuire  
Rosalyn H. Richter, Justices.

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

-against-

M-4308  
Ind. No. 6225/86

Rene Rodriguez,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on December 7, 1989 (Appeal No. 38456), unanimously affirming a judgment of the Supreme Court, New York County (Murray Mogel, J.), rendered on August 20, 1987,

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 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 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 26, 2010.

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

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

-against-

Efrain Garcia,  
Defendant-Appellant.

M-4585  
Ind. Nos. 5442/98  
6071/98  
2002/99

-----X

An order of this Court (M-6425) having been entered February 6, 2003, dismissing the appeal taken from the judgment of the Supreme Court, Bronx County, rendered on or about May 6, 1999,

And counsel for defendant-appellant having moved for an order reinstating the aforesaid appeal,

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

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 26, 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

James Pettus,  
Petitioner,

For a Judgment Pursuant to Article  
78 of the CPLR,

M-3390  
Index No. 6117/02

-against-

Hon. Ruth Pickholz,  
Respondent.

-----X

An Article 78 proceeding having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about May 24, 2010, to review a determination of respondent,

And petitioner having moved to have respondent removed from the New York State Supreme Court, reversal of respondent's decisions and for leave to prosecute the proceeding as a poor person, upon the original record and reproduced petitioner'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; the Article 78 proceeding dismissed and leave to prosecute the proceeding as a poor person is denied as academic.

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 26, 2010.

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

-----X  
Helene Krentzel and Jack Krentzel,  
Plaintiffs-Appellants,

-against-

The City of New York, Consolidated Edison  
Company of New York, Inc., Empire City  
Subway Company and Felix Equities, Inc.,  
and Nico Asphalt Paving, Inc.  
Defendants-Respondents.

M-4178  
M-4383  
M-4401  
Index No. 115406/01

-----X  
An appeal having been taken from a judgment of the Supreme Court, New York County, entered September 3, 2009,

And defendant-respondent Nico Asphalt Paving, Inc. having moved (M-4178) for dismissal of the aforesaid appeal,

And defendant Consolidated Edison Company of New York, Inc. having cross moved (M-4383) for the same relief,

And defendant Empire City Subway Company having cross moved (M-4401) for the same 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 motions (M-4178/M-4383/M-4401) are granted and the appeal is dismissed.

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 26, 2010.

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

-----X  
Danny Rivera,  
Plaintiff-Appellant,

-against-

Dennis Ayala, et al.,  
Defendants-Respondents.

M-4616  
Index No. 23744/99

-----X

Defendant-respondent having moved for dismissal of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about July 9, 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 and the appeal is dismissed.

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 26, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,  
Eugene Nardelli  
Sheila Abdus-Salaam  
Nelson S. Román, Justices.

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

-against-

M-3572  
Ind. No. 6828/98

LaDale Kennedy,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on May 28, 2002 (Appeal No. 1202), unanimously affirming a judgment of the Supreme Court, Bronx County (John Moore, J.), rendered on March 7, 2000,

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 26, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
Eugene Nardelli  
James M. McGuire  
Karla Moskowitz, Justices.

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

-against-

M-4181  
SCI. No. 1475/03

Corey Gamble,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on April 22, 2010 (Appeal No. 2607) unanimously affirming the judgment of the Supreme Court, Bronx County, rendered on or about November 19, 2004,

And defendant having moved for reconsideration of the aforesaid decision and order of this Court,

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

It is ordered that the motion is 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 26, 2010.

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

-----X  
New York University,  
Plaintiff-Appellant,

-against-

National Continental Insurance Company,  
Defendant-Respondent,

M-4364  
Index No. 603743/09

Arma Scrap Metal Co., Inc., Northfield  
Insurance Company, National Union Fire  
Insurance Company, PA, Glen Hamer and  
Denise Hamer,  
Defendants.

-----X

Defendant-respondent having moved for dismissal of the appeal taken from the order of the Supreme Court, New York County, entered on or about May 11, 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 and the appeal is dismissed.

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 26, 2010.

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

-----X  
Sidney Purdie,  
Petitioner-Appellant,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-4385  
Index No. 4732/05

Dale Artus, Superintendent, Clinton  
Correctional Facility and Brian  
Fischer, Commissioner of Department  
of Correctional Services,  
Respondents-Respondents.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the proceeding in which petitioner purports to challenge the judgment of the Supreme Court, New York County, rendered on or about June 1, 2006, and for leave to have the proceeding heard on the original record and upon a reproduced appellant's brief, and for other relief,

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

It is ordered that said motion is denied and, *sua sponte*, the proceeding is dismissed as academic.

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 26, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Eugene Nardelli  
Leland G. DeGrasse, Justices.

-----X  
Alamin O. Hassan, also known as  
Alamin Hassan O.,  
Plaintiff-Appellant,

-against-

M-4566  
Index No. 400669/07

Moran ID No. 906866 and New York City,  
Defendants-Respondents.

-----X

An order of this Court (M-162) having been entered on March 5, 2009 denying plaintiff-appellant's motion for an enlargement of time in which to perfect the appeal taken from the order of the Supreme Court, New York County, entered on or about June 12, 2007 (mot. seq. no. 001), and dismissing the appeal,

And plaintiff-appellant having moved for reargument of the aforesaid order (M-162),

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 26, 2010.

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

-----X  
Elena Strujan,  
Plaintiff-Appellant,

-against-

M-4629  
Index No. 406368/07

Rainbow Ace Hardware, et al.,  
Defendants-Respondents.  
-----X

Plaintiff-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about September 9, 2009 (mot. seq. no. 004), and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for other relief,

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

Ordered that the motion is denied, and *sua sponte* the appeal is dismissed.

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 26, 2010.

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

-----X  
Gilbert Lau,

Plaintiff-Appellant,

-against-

S&M Enterprises, et al.,

Defendants-Respondents.  
-----X

**M-2703**

**M-2704**

Index No. 120300/03

Plaintiff-appellant having moved for reargument of the decision and order of this Court entered on April 13, 2010 (Appeal Nos. 2536 and 2536A) [M-2703],

And plaintiff-appellant having moved for a waiver of fees on the instant motion and for related relief [M-2704],

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-2704] is granted to the extent of dispensing with the fees associated with the instant motion and otherwise denied. Plaintiff's motion for reargument is denied [M-2703].

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 26, 2010.

Present - Hon. Leland G. DeGrasse, Justice Presiding,  
Helen F. Freedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam  
Sallie Manzanet-Daniels, Justices.

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

Alaire K. G.,  
Petitioner-Respondent,

-against-

M-3697  
Docket Nos.  
V28926-08/08A

Anthony P. G.,  
Respondent-Appellant.  
-----

LaShonne Watts, Esq.,  
Children's Law Center,  
Law Guardian for the Child.  
-----x

An appeal having been taken to this Court by respondent from the order of the Family Court, Bronx County, entered on or about July 9, 2010, and said appeal having been perfected,

And respondent-appellant father having moved for a stay of custody transfer pending hearing and determination of the aforesaid appeal,

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

It is ordered that the motion is denied.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 26, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,  
James M. McGuire  
Karla Moskowitz  
Rolando T. Acosta  
Leland G. DeGrasse, Justices.

-----X  
Patriot Exploration, LLC, et al.,  
Plaintiffs-Respondents,

-against-

M-4402  
Index No. 114436/08

Thompson & Knight LLP,  
Defendant-Appellant.

-----X

Defendant-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on July 27, 2010 (Appeal No. 2540),

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 reargument, is denied. The motion, to the extent it seeks leave to appeal to the Court of Appeals, is granted and this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

"Was the order of Supreme Court, as affirmed by the order this Court, properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

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 26, 2010.

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

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

-----  
Miriam Q.,

Petitioner-Appellant,  
-against-

M-4305  
Docket Nos. V-19129/09  
V-31337/09

Walter D.-L.,

Respondent-Respondent.  
-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of custody and visitation of the Family Court, Bronx County, entered on or about July 7, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is denied, the appeal having been taken from a non-appealable order.

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 26, 2010.

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

-----x  
The People of the State of New York,  
ex rel. Michelle Fox, on behalf of  
Robert Wells,  
Petitioner-Appellant,

-against-

M-3945  
Index No. 401942/10

Dora Schriro, etc., et al.,  
Respondents-Respondents.

-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County entered on or about July 29, 2010, which denied petitioner's writ of habeas corpus,

And an order of a Justice of this Court having been entered on August 4, 2010, inter alia, releasing petitioner on his own recognizance and for an order expediting the aforesaid appeal,

And petitioner having moved for an order continuing the interim relief granted by the order of a Justice of this Court on August 4, 2010, and for poor person relief on the appeal,

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

It is ordered that the motion is granted to the extent of continuing the interim relief granted by the order of a Justice of this Court on August 4, 2010 on condition the appeal is perfected for the March 2011 Term, and it is further

Ordered that poor person relief is granted to the extent of permitting the appeal 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 Attorney General of the State of New York and files 10 reproduced copies of such brief, together with the original record, with this Court.

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 petitioner-appellant for purposes of the appeal. Counsel is directed to perfect the appeal in accordance with Rule 600.18 of the Rules of this Court.

ENTER:

A handwritten signature in black ink that reads "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 26, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
James M. Catterson  
Diane T. Renwick  
Sallie Manzanet-Daniels, Justices.

-----X  
In re Myisha B.,

A Dependent Child Under 18 Years of Age, etc.,

Darryl B.,  
Respondent-Appellant,

**M-3328**  
Docket No. NA290/08

Administration for Children's Services,  
Petitioner-Respondent.

-----X

Respondent-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 25, 2010 (Appeal Nos. 2877 and 2878), and for poor person relief and the assignment of counsel to pursue said 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 26, 2010.

Present - Hon. David Friedman, Justice Presiding,  
Karla Moskowitz  
Diane T. Renwick  
Helen F. Freedman  
Nelson S. Román, Justices.

-----X  
Jay Mitchell Bauman, M.D.,  
Plaintiff-Appellant-Respondent,

-against-

M-3026  
Index No. 102293/08

The Mount Sinai Hospital, et al.,  
Defendants-Respondents-Appellants.

-----X

Defendants-respondents-appellants having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on April 15, 2010 (Appeal No. 2253),

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 26, 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  
Jacqueline Hernandez,  
Petitioner,

For a Judgment Pursuant to Article 78  
of the Civil Practice law and Rules, Index No. 113674/08

**M-3780**

**M-4260**

-against-

New York City Housing Authority,  
Respondent.  
-----X

An Article 78 proceeding to review a determination of respondent, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about August 11, 2009,

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 an enlargement of time in which to perfect said proceeding (M-3780),

And respondent having cross-moved to dismiss the aforesaid proceeding (M-4260),

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 respondent's cross motion is granted and the proceeding dismissed. Petitioner's motion is denied, as academic.

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 26, 2010.

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

-----X  
Success, LLC, R&D Films, Inc. and Ethan  
Goldman,  
Plaintiffs-Respondents,

Bad Company Films and Aldola LaPietra,  
Plaintiffs-Respondents,

-against-

Stonehenge Capital Company, LLC,  
Defendant-Appellant,

**M-3978**

**M-4139**

**M-4258**

Index No. 117138/06

W. Stephen Keller,  
Defendant-Appellant,

Alan Brown, et al.,  
Defendants-Respondents,

John Doe, Inc., etc., et al.,  
Defendants.

-----X

Plaintiffs-respondents, Success, LLC, R&D Films, Inc. and Ethan Goldman, having moved (M-3978) for an adjournment of the consolidated perfected appeals taken by the respective appellants from the order of the Supreme Court, New York County, entered on or about February 23, 2010 (mot. seq. nos. 005, 006),

And aforesaid plaintiffs-respondents having moved (M-4139) for leave to file a late notice of cross appeal from the aforesaid order of the Supreme Court, New York County entered on or about February 23, 2010,

And defendants-appellants having cross-moved (M-4258) for a stay of all proceedings including trial pending hearing and determination of the aforesaid consolidated appeals,

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 defendants' cross motion (M-4258) is granted only to the extent of staying trial proceedings. The stay does not extend to mediation or settlement conference(s) or other proceedings in Supreme Court. Plaintiffs' motion (M-4139) to file a late notice of cross appeal is denied. Plaintiffs' motion (M-3978) for an adjournment of the consolidated appeals is granted to the extent of adjourning the appeals to the December 2010 Term. Respondents' briefs to be served and filed on or before November 10, 2010. Appellants' reply brief(s) to be served and filed on or before November 19, 2010.

ENTER:

A handwritten signature in black ink, appearing to read "David Apakony". The signature is written in a cursive, flowing style.

Clerk.

PM ORDERS

ENTERED

OCTOBER 28, 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 28, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----x  
Broadway 500 West Monroe Mezz II LLC,  
et al.,  
Plaintiffs-Appellants,

-against-

M-5097  
Index No. 651420/10

Transwestern Mezzanine Realty Partners  
II, LLC, et al.,  
Defendants-Respondents.  
-----x

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

And an order of this Court having been entered on September 30, 2010 (M-4539), granting of stay of proceedings on condition appellants post an undertaking and perfect the appeal for the January 2011 Term,

And plaintiffs-appellants having moved for an order enlarging the record on appeal to include a certain affidavit (Exhibit A to the moving papers), and 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

At a 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 28, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
Eugene Nardelli  
Rolando T. Acosta, Justices.

-----x  
Robert M. Morgenthau, District Attorney  
of New York,  
Plaintiff-Respondent,

-against-

M-3838  
Index No. 400516/06

Western Express International, Inc.  
and Vadim Vassilenko,  
Defendants-Appellants.

Yelena Barysheva and Alexey Barishev,  
Defendants.

- - - - -

John DeMaio, Esq.,  
Non-Party Attorney Assignee.

-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about September 22, 2009 (mot. seq. no. 008) and said appeal having been argued on June 9, 2010 (Appeal No. 3181) and a subsequent order of the Supreme Court having been entered July 22, 2010 directing entry of a judgement in favor of plaintiff,

And John DeMaio, Esq., counsel for defendants-appellants Western Express International, Inc. and Vadim Vassilenko, having moved for a stay of execution of said judgment with respect to attorneys fees pending determination of the aforesaid appeal, and for related relief,

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

It is ordered that the motion is granted to the extent of directing plaintiff-respondent to hold \$68,820 in an escrow account to be used to compensate John DeMaio, Esq., counsel for the above-said defendants-appellants, in the event defendants-appellants prevail with respect to the issue of attorney's fees, and the motion is otherwise denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 28, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
James M. McGuire  
Rolando T. Acosta  
Diane T. Renwick  
Helen E. Freedman, Justices.

-----X  
In the Matter of

Jamoneisha M.,

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

**M-4860**  
Docket No. NN2400/09

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

Ebony M.,  
Respondent-Appellant.

-----  
Kenneth M. Tuccillo, Esq.,  
Law Guardian for the Child.

-----X

Appeals having been taken from orders of the Family Court, Bronx County, entered on or about October 27, 2009 and on or about November 17, 2009,

And law guardian for the Child, Linda McCarthy, Esq., having moved for an order to be relieved as law guardian and to substitute other counsel to respond to the appeal,

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

It is ordered that the motion is granted to the extent of relieving movant as law guardian and substituting, pursuant to

Article 18b of the County Law and § 1120 of the Family Court Act, Kenneth M. Tuccillo, Esq., 385 Warburton Avenue, Hastings on Hudson, New York, NY 10706, Telephone No. (914) 439-4843, as law guardian for purposes of responding to the appeal, which is sua sponte adjourned to the February 2011 Term.

Enter:

A handwritten signature in black ink that reads "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 28, 2010.

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

-----x  
Edward A. Kaminsky,  
Plaintiff-Appellant,

-against-

M-4956  
Index No. 602540/09

Herrick, Feinstein LLP,  
Defendant-Respondent.  
-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County entered on or about March 24, 2010,

And an order of this Court having been entered on August 17, 2010 (M-3290), granting defendant-respondent's motion to dismiss the appeal unless perfected for the December 2010 Term, as indicated,

And plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal, and for other relief,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated October 12, 2010, and due deliberation having been had thereon,

It is ordered that the motion is granted in accordance with the aforesaid stipulation to the extent that plaintiff's appellant's time to perfect the appeal is enlarged to on or before November 8, 2010 for the January 2011 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:



Clerk.