

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

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

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

-against-

M-4106
Ind. No. 2524/09

Edward Brown,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of the Supreme Court, New York County, rendered on or about September 23, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated July 26, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 19, 2010.

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

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

-against-

M-4174
Ind. No. 2173/07

Alfred Johnson,
Defendant-Respondent.

-----X

The People having appealed to this Court from an order of the Supreme Court, New York County, entered on or about January 7, 2008,

Now, upon reading and filing the stipulation of the parties hereto dated August 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 19, 2010.

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

-----X
Silvermark Corporation,
Plaintiff-Appellant,

-against-

M-4263X
Index No. 602026/07

Rosenthal & Rosenthal, Inc. and
Star City Sportswear, Inc.,
Defendants-Respondents.

-----X

Appeals having been taken from an order and judgment of the Supreme Court, New York County, entered on or about October 15, 2009 (mot. seq. no. 003) and October 22, 2009, respectively,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" August 20, 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It is ordered that the appeals are withdrawn in accordance with the aforesaid stipulation.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 19, 2010.

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

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

-against-

M-4525
Ind. No. 4659/06

Nathaniel Ellison,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of the Supreme Court, New York County, rendered on or about October 26, 2006,

Now, upon reading and filing the stipulation of the parties hereto, dated September 9, 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 19, 2010.

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

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

-against-

M-4550
Ind. No. 1123/07

Rufus Riley,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of the Supreme Court, Bronx County, rendered on or about December 18, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated September 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 19, 2010.

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

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

-against-

M-4288
Ind. No. 1154N/08

Akwasiba Radellant,
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 March 3, 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 19, 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,

-against-

M-4011
Ind. No. 3075/80

David Price,

Defendant.

-----X

Defendant having renewed the motion for an extension of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about November 21, 1980, and for leave to prosecute the appeal as a poor person, and for related relief,

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

It is ordered that the motion is denied (CPL §460.30 subd. 1).

ENTER:



Clerk

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

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

-----X
In the Matter of the Application of
Heidi Higgins,
Petitioner-Appellant,

For a Judgment, etc.,

M-4437
Index No. 106107/09

-against-

Raymond Kelly, etc., et al.,
Respondents-Respondents.

-----X

Petitioner-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about November 4, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the March 2011 Term.

ENTER:



Clerk

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

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

-----X

Betty Floyd,
Claimant,

M-3968
Claim No. 113494

-against-

The State of New York Division of
Human Rights,
Defendant.

-----X

An order of this Court having been entered on July 6, 2010 (M-2720) denying reargument of the order of this Court entered April 27, 2010 dismissing claimant's appeal from the order of the Court of Claims, entered on or about December 4, 2008,

And claimant having moved for reinstatement 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 19, 2010.

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

-----X
Thomas Donato,
Plaintiff-Respondent,

-against-

M-4793
Index No. 8670/07

Aron D. Rovner, M.D.,
Defendant-Appellant,

-and-

Long Beach Medical Center,
Defendant.

-----X

Defendant-appellant having moved for a stay of all proceedings including enforcement of the judgment of the Supreme Court, Bronx County, entered on or about June 10, 2010, pending hearing and determination of the appeal taken therefrom,

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

It is ordered that the motion is granted on condition appellant perfects the appeal on or before December 6, 2010 for the February 2011 Term for which Term appellant is directed to so perfect.

ENTER:



Clerk.

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

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Rolando T. Acosta
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----x
Eli Weinstein,
Plaintiff-Appellant,

-and-

Pine Projects, LLC,
Plaintiff,

M-4432
Index No. 602563/08

-against-

Michael Gindi,
Defendant-Respondent.
-----x

Plaintiff-Appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, entered on or about October 29, 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 19, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Rolando T. Acosta
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----x
Dawn DeLuca,

Plaintiff-Appellant,

-against-

M-4456
Index No. 307853/08

Allstate Insurance Company,

Defendant-Respondent.
-----x

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

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the 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 19, 2010.

PRESENT: Hon. Angela Mazzairelli, Justice Presiding,
James M. McGuire
Leland G. DeGrasse
Helen E. Freedman
Rosalyn H. Richter, Justices.

-----X

In the Matter of the Application of

Pearline Smith,
Petitioner,

For a Judgment Pursuant to Article 78
of the CPLR,

M-3773
Index No. 400242/09

-against-

New York City Housing Authority,
Respondent.

-----X

An order of this Court having been entered August 3, 2010 (M-2314/M-2576), inter alia, dismissing the appeal taken from the order of the Supreme Court, New York County, entered on or about March 2, 2010 (mot. seq. no. 003),

And petitioner having moved for a stay of proceedings herein including eviction,

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, the appeal having been 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 19, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
John T. Buckley
John W. Sweeny, Jr.
James M. McGuire, Justices.

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

-against-

M-4453
Ind. No. 2045/03

Christopher Hicks,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on December 27, 2007 (Appeal No. 2416), unanimously affirming a judgment of the Supreme Court, Bronx County (Richard Lee Price, J.), rendered on March 9, 2005,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and for related relief,

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

It is ordered that said application is denied.

ENTER:



Clerk.

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

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

-----X
Gilbert Lau,
Plaintiff-Appellant,

-against-

M-2582
Index No. 120300/03

S&M Enterprises, 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 April 13, 2010 (Appeal No. 2536-2536A), for a waiver of fee on this application 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 dispensing with the fee associated with the instant motion. The motion, insofar as it seeks leave to appeal to the Court of Appeals 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 19, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Eugene Nardelli
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
35 Lispenard Partners, Inc.,
Plaintiff-Appellant,

-against-

35 Smoke & Grill, LLC, et al.,
Defendants-Respondents.

M-3434
Index No. 600481/06

-----X

Defendants-respondents having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on June 8, 2010 (Appeal No. 3001),

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 19, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,
Helen E. Freedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----x
Robert Hebel, et al.,

Plaintiffs-Appellants,

-against-

M-4433
Index No. 114246/06

City of New York, et al.,

Defendants-Respondents.
-----x

Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about October 28, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the 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 19, 2010.

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

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

-against-

Terrence Johnson
Defendant-Appellant.

M-4291
Ind. No. 302/08
4226N/09

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, New York County, rendered on or about March 26, 2010, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:



Clerk.

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

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

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

-against-

M-4290
Ind. No. 1169/09

Guillermo Aybar,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about February 18, 2010, for leave to prosecute the appeal as a poor person, on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted only to the extent of deeming the moving papers a timely filed notice of appeal.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, in compliance with CPLR 1101, setting forth the terms of defendant's retainer agreement with trial counsel, as well as the amount and sources of funds to pay the fee of trial counsel, Alexander Sanchez, Esq., 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 19, 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
Stanley Moore,
Petitioner-Appellant,

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

M-4452
Index No. 100479/10

Andrea W. Evans, Chairwoman,
New York State Division of Parole,
Respondent-Respondent.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about August 2, 2010, and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, for the assignment of appellate counsel, 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 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 for respondent and files 8 copies of such brief, in compliance with Rule 600.11(b), together with the original record, with this Court. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record. The motion, to the extent it seeks assignment of appellate counsel, 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 19, 2010.

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

-----X
In the Matter of the Application of
Bennie G.,
Petitioner-Appellant,

For a Judgment, etc.,

M-4491
Index No. 400616/09

-against-

Executive Director, Kirby Psychiatric
Center, et al.,
Respondents-Respondents.

-----X
Respondents-respondents having moved for dismissal of the appeal from the order of the Supreme Court, New York County, entered on or about June 19, 2009, for failure to timely perfect,

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 19, 2010.

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

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

Appellant,

-against-

M-4225
Ind. No. 239/04

German Otero,

Defendant-Respondent.
-----X

The People having moved for an enlargement of time in which to perfect the appeal from an order denying **resentence** of the Supreme Court, New York County, entered on or about October 21, 2009,

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

It is ordered that the motion and the appeal are deemed withdrawn in accordance with the aforesaid stipulations.

ENTER:


Clerk.

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

Anthony Angel R.,
Brian Carlos R.,
Jaleen Jenny R., and
Jordan Adrian R.,

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

M-3884
Docket Nos. B7596-99/08

- - - - -
Abbott House,
Petitioner-Respondent,

Jennifer Vivian R.,
Respondent-Appellant.

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

-----X
Petitioner-respondent having moved for dismissal of the appeals from orders of the Family Court, Bronx County, entered on or about August 20, 2009, for failure to timely prosecute,

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

It is ordered that the motion is granted and the appeals are 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 19, 2010.

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

-----X
Felton Richardson and Sonji Richardson,

Plaintiffs-Appellants,

-against-

M-3996
Index No. 15284/06

Gotham Taxi Corp. and Abdul Aziz Bala,

Defendants-Respondents.
-----X

Defendants-respondents having moved for dismissal of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about April 21, 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 19, 2010.

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

-----x
Chohung Bank of New York, formerly known
as Cho Hung Bank of New York,
Plaintiff-Respondent,

-against-

M-4207
Index No. 603644/00

Fab Plaza Inc., et al.,
Defendants,

-and-

Woon Young Rou,
Defendant-Appellant.

-----x
Plaintiff-respondent having moved for dismissal of the appeal from the judgment of the Supreme Court, New York County, entered on or about April 10, 2001, for failure to timely perfect,

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 19, 2010.

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

-----X
John F. Schutty, also known as John F.
Schutty, III,

Plaintiff-Appellant,

-against-

Speiser Krause P.C., et al.,

Defendants-Respondents.
-----X

SEALED
M-3762
Index No. 602485/08

Defendants-respondents having moved to dismiss the appeal from the order of the Supreme Court, New York County, entered on or about June 1, 2010 (mot. seq. no. 002),

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

It is ordered that the motion is denied without prejudice to addressing the issue on the appeal.

ENTER:



Clerk.

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

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

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

-against-

M-4135
Ind. No. 3750/06

Sheldon Harris,
Defendant-Appellant.

-----x

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about August 25, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, 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 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 serve one copy of such brief upon the District Attorney of said county and file 10 reproduced copies of such brief, together with the original record, with this Court.

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

The time in which to perfect the appeal is enlarged 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 19, 2010.

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

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

-against-

M-4216
Ind. No. 4149/07

Stacy Christopher,
Defendant-Appellant.
-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, New York County, rendered on or about April 28, 2010, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:

Clerk.

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

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

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

Respondent,

-against-

M-4282
Ind. No. 5450/03

Miguel Perez,

Defendant-Appellant.
-----X

An order of this Court having been entered on June 8, 2010 (M-2045) granting defendant leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about April 8, 2010, **denying resentence**, and assigning Steven Banks, Esq., as counsel to prosecute the appeal; and a motion having been made to relieve such counsel, and for related relief,

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

It is ordered that the motion is granted to the extent of striking the designation of assigned counsel Steven Banks, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523 as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on June 21, 2012.

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

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

-against-

M-4129A
Ind. Nos. 2078/03
3126/03

Ramon Arroyo, also known as
Raymond Arroyo,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about September 8, 2011, **denying resentence**, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, with this Court pursuant to Rule 600.11 of the Rules of this Court.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record. The order of this Court entered on October 19, 2010 (M-4129) is hereby recalled and vacated.

ENTER:


DEPUTY CLERK

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

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

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

-against-

M-4213
Ind. No. 1600/00

Julio Munoz, also known as Julio Matos,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about July 7, 2010, for leave to prosecute the appeal as a poor person, upon the original record and upon a reproduced appellant's brief, and for assignment of counsel,

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

It is ordered that the motion is granted only to the extent of deeming the notice of appeal timely filed.

The motion, insofar as it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, David Goldstein, Esq., as well as the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:



Clerk.

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

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

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

-against-

M-4218
Ind. No. 4500/09

Alvin Peterson,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about April 12, 2010, for leave to prosecute the appeal as a poor person, upon the original record and upon a reproduced appellant's brief, and for assignment of counsel,

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

It is ordered that the motion is granted only to the extent of deeming the notice of appeal timely filed.

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

ENTER:



Clerk.

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

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

-----X

The People of the State of New York,
Respondent,

-against-

M-4109
Ind. No. 68/00

Nathan Douglas,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of resentence of the Supreme Court, New York County, rendered on or about July 8, 2010,

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

It is ordered that the motion is granted 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 19, 2010.

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

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

-against-

M-4215
Ind. No. 3069/06

Allen Henry,

Defendant.
-----X

Defendant having moved for an extension of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about December 13, 2006, and for leave to prosecute the appeal as a poor person, and for related relief,

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

It is ordered that the motion is denied (CPL §460.30 subd. 1).

ENTER:



Clerk

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

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

-----X

The People of the State of New York,

Respondent,

-against-

M-4249
Ind. No. 710/08

Lloyd Nicholson,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about August 6, 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, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, Peter Troxler, Esq., the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:



Clerk.

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

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

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

Respondent,

-against-

M-4251
Ind. No. 946/06

Terrence Rodney,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about March 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 denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, Lawrence DiGiansante, Esq., the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:



Clerk.

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

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

-----X

The People of the State of New York,

Respondent,

-against-

M-4255
Ind. No. 1803/09

Richard Younger,

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 13, 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 of funds to pay the fee of trial counsel, Ronald E. Kliegerman, Esq., and to post the \$7,500 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the 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 19, 2010.

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

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

Respondent,

-against-

M-4252
Ind. No. 1553/07

Edy Rodriguez,

Defendant-Appellant.
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about July 28, 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, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, Howard Levine, Esq., the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 19, 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
Lorraine Thomas, also known as
Lorraine Thomas-Wilson,

Petitioner-Appellant,

For a Judgment, etc.,

-against-

M-4275
Index No. 102842/09

New York City Department of Education,

Respondents-Respondent.
-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about June 29, 2010, and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, 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 said motion, and due deliberation having been had thereon,

It is ordered that the motion, to the extent it seeks poor person relief, is denied. So much of the motion which seeks an enlargement of time to perfect is denied, as unnecessary.

ENTER:


Clerk.

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

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

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

-against-

M-4108
Ind. No. 5319N/08

Lincoln Clark,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about July 8, 2009,

And defendant-appellant having moved for an order enlarging the record on appeal to include and granting the unsealing of the pre-trial, ex parte, Darden Hearing minutes and related paperwork herein, and 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 19, 2010.

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

-----x
Brax Capital Group, LLC, et al.,
Plaintiffs-Respondents,

-against-

M-4224
Index No. 600398/07

Winwin Gaming, Inc.,
Defendant,

-and-

Arthur Petrie,
Defendant-Appellant.

-----x
Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, entered on or about December 8, 2009,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the 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 19, 2010.

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

-----X
Chin Wai Chan,
Plaintiff-Appellant,

-against-

77 Avenue C Limited Partnership,
Defendant-Respondent.

M-4160
Index No. 570212/10

-----X

Respondent having moved for leave to appeal to this Court from the decision and order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about May 26, 2010, for leave to prosecute said appeal as a poor person, and for related relief,

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

It is ordered that the motion is denied.

ENTER:



Clerk.

OCT 19 2010

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzairelli
Richard T. Andrias
Karla Moskowitz
Dianne T. Renwick, Justices.

-----X

In the Matter of Norman Leonard Cousins,
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-288
for the First Judicial Department,
Petitioner,

Norman Leonard Cousins,
Respondent.

-----X

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Norman Leonard Cousins, was admitted to the Bar
of the State of New York at a Term of the Appellate Division
of the Supreme Court for the First Judicial Department on
December 22, 1969.

Alan W. Friedberg, Chief Counsel, Departmental
Disciplinary Committee, New York
(Mady J. Edelstein, of counsel), for petitioner.

Victor M. Serby, for respondent.

IN THE MATTER OF NORMAN LEONARD COUSINS, AN ATTORNEY

Per Curiam

Respondent Norman Leonard Cousins was admitted to the practice of law in the State of New York by the First Judicial Department on December 22, 1969. At all times relevant to this proceeding, respondent has maintained an office for the practice of law within this Department.

This disciplinary proceeding arises out of respondent's representation of Kevin Veneski and his wife in a medical malpractice action, *Veneski v Queens-Long Island Medical Group, PC et al.* In June 1997, the Veneskis retained respondent pursuant to a written retainer agreement which set forth the sliding fee scale mandated by Judiciary Law § 474-a. They also signed a litigation financing agreement under which they would borrow money from respondent for expenses and disbursements at an interest rate of 15% per year. To fund the *Veneski* action and other cases, respondent apparently borrowed several hundred thousand dollars from various litigation funding companies, including Core Funding Group, LLC (Core Funding) and Legal Asset Funding, LLC (LAF), pledging some of the same collateral to both entities.

After a jury awarded the Veneskis \$4,215,300 in damages, Mr. Veneski signed an affidavit on February 26, 2000 in support of a

potential application by respondent for increased compensation pursuant to Judiciary Law § 474-a, stating: "I intend to give [respondent] one third (1/3) of the net recovery he has obtained for me in this action whether it be denominated a fee, gift or gratuity (a tip)". Respondent did not file the affidavit or seek court approval for an increased fee until 2006.

After this Court ordered a new trial (285 AD2d 369), the malpractice action was settled in November 2002 for \$3 million plus an annuity that would yield \$750,000 over 20 years. On December 12, 2002, respondent wrote to Mr. Veneski that he was about to receive the first payment of \$1 million, and that "[s]ubject to court approval (if required), the attorney fee is one-third of the net recovery." Respondent calculated that he was owed \$154,011.26 in disbursements and \$281,996.25 in attorney's fees from that payment. At some point the Veneskis paid respondent an additional \$63,000 as interest on disbursements.

Thereafter, the malpractice defendants' main insurance carrier became insolvent and the remaining \$2 million of the settlement was to be paid by the Liquidation Bureau. Respondent represented to the liquidation court that his attorney's fee on that payment was \$212,500. In contrast, he wrote to Mr. Veneski in October 2003 that he was "owe[d]" \$454,450.55, representing \$666,524.73 in "attorney's fees" plus \$425.82 in disbursements, less the \$212,500 set aside for him by the Liquidation Bureau.

After receiving the payment, Mr. Veneski gave respondent a check for \$454,450.55 and, upon respondent's request, crossed out the words "attorneys fees" he had written on the memo line, and substituted "gift." At the same meeting, Mr. Veneski signed a gift tax return in blank, which respondent sent to respondent's accountant to fill in. When respondent received the first annuity payment of \$20,000 in October 2005, he wrote to Mr. Veneski that he was applying it to disbursements and interest.

Meanwhile, in July 2003, after learning that respondent had purportedly executed and delivered to the Superintendent of Insurance an assignment directing that his \$666,666 fee in the Veneski action be paid to two litigation funding companies controlled by LAF's principal, Thomas DeClemente, Core Funding commenced an action in the United States District Court against respondent, LAF, DeClemente, and others to protect its priority interest in the collateral (*see Core Funding Group, LLC v Norman Leonard Cousins, et al.*, 03 Civ. 5575 [SDNY]). LAF cross claimed and filed a third party complaint against respondent and Mr. Veneski alleging, among other things, that when Mr. Veneski signed the February 26, 2000 affidavit supporting a potential application for increased attorney's fees, it was done to fraudulently induce LAF to advance funds to respondent.

On September 12, 2003, the liquidation court ordered that the \$212,500 fee claimed by respondent be paid into the registry

of the United States District Court as part of the resolution of the Core Funding action, which was settled in December 2003 with Core Funding having received that payment.

The Veneskis were also sued by LAF in New Jersey (*Legal Asset Funding, LLC v Cousins*, D NJ, Civ 05-2051[HAA] and *Legal Asset Funding, LLC v Cousins*, Super Ct, Chanc Div, NJ, Docket No. HUD-C-1-04]) and in Pennsylvania (*Legal Asset Funding, LLC v Veneski*, 2006 WL 2623884 [MD Pa 2006]) in connection with the funds borrowed by respondent. Respondent was admitted pro hac vice to represent the Veneskis in the Pennsylvania action, although almost all the work appears to have been performed by local, lead counsel. Apparently, both the New Jersey and Pennsylvania actions were resolved upon respondent's payment of \$340,000 to DeClemente.

On February 1, 2006, respondent filed a motion in the *Veneski* action for an increased fee. The Veneskis cross-moved for an order finding that respondent owed them \$1,231,061.89. By order dated January 30, 2007, Justice Heitler determined that respondent had billed and received one-third of the \$3,000,000 lump sum without court approval. She referred the issue of disbursements to a referee. Respondent filed a notice of appeal, but the appeal was dismissed for failure to prosecute.

By order entered December 14, 2007, Justice Heitler denied respondent's motion for reargument and renewal based, among other

things, on his claim that the \$454,450.55 check he received from the second installment was a gift, not a fee, which he accepted because it "was the only way at the time I could protect [Mr. Veneski] from [] DeClemente." Justice Heitler found that respondent failed to offer a reasonable explanation as to why he did not offer his new evidence earlier and that in any event, under Canon 5 of the Code of Professional Responsibility, such a substantial gift from a brain-damaged client would have required a writing, reviewed by independent counsel, which was not done.¹

Meanwhile, a referee determined, after a hearing, that respondent had overcharged \$11,000 in disbursements. By order dated May 21, 2008, Justice Heitler confirmed the referee's report in part, but found an overcharge of \$56,924.06 in disbursements. Respondent was directed to return that overcharge and excessive attorney's fees of \$508,229.70, with interest, and judgment was entered against him and on January 7, 2009, in the amount of \$619,538.25. By order entered April 6, 2010 (M-658), this Court dismissed respondent's appeal from the judgment.

By order entered June 5, 2009, this Court, giving collateral estoppel effect to Justice Heitler's findings that respondent

¹The new evidence included a letter from respondent to his accountant enclosing an Internal Revenue Service Gift Tax Form allegedly signed by Mr. Veneski on November 8, 2003, and a letter to Mark S. Adler, Esq., signed by Mr. Veneski in 2005, stating: "I Kevin Veneski gave Norman Cousins a gift for the work he did for my case and do not want it back. I just want to be compensated if I am sued by De Clemente and have to pay him."

demanded and charged his client \$508,229.70 in fees above the amount permitted by Judiciary Law § 474-a, and overcharged \$56,924.06 for expenses and disbursements, granted the Departmental Disciplinary Committee's petition and found respondent guilty of professional misconduct in violation of DR 1-102(A)(4) (conduct involving fraud, dishonesty, deceit, or misrepresentation), DR 1-102(A)(7) (conduct adversely reflecting on respondent's fitness as a lawyer), and DR 2-106(A) (charging or collecting illegal or excessive fees). Accordingly, we referred the matter to a Referee to be appointed by the Court to hold a hearing and issue a report and recommendation solely on the issue of the appropriate sanction.

At the hearing, the Committee called no witness and offered twenty exhibits into evidence, including a 1990 Admonition of respondent, without formal proceeding, for dishonest conduct (DR 1-102[A][4]) by falsely notarizing an affidavit. Respondent testified on his own behalf, called four character witnesses and introduced fourteen exhibits into evidence.

Respondent maintained that he accepted a gift given by Mr. Veneski to extricate the Veneskis from the Core Funding lawsuit and that any claim of duress or undue influence was vitiated by Mr. Veneski reaffirming the gift multiple times over the ensuing years while represented by other counsel. Respondent credited himself with shutting down his practice to devote his time to

defending the Veneskis in the LAF litigation, at no cost.

On November 24, 2009, the Referee submitted his report and recommended disbarment. The Referee found "incredible" respondent's testimony that Mr. Veneski intended to make a gift of \$454,000, or that respondent believed in good faith that it was a gift. In addition to the fact that Justice Heitler had also rejected respondent's claim as "incredible," the Referee based his conclusion on several factors, including that at the time each installment of the settlement payment was due, respondent wrote to Mr. Veneski that he was "owed" one-third of the amounts as "attorney's fees"; Mr. Veneski originally wrote "attorneys fees" on the memo line of the \$454,000 check and only wrote "gift" at respondent's request; nothing in the relationship between Mr. Veneski and respondent would explain a gift of that amount; respondent did not "take any of the precautions one would expect a lawyer to take when accepting a 'gift' of this magnitude from a client in circumstances such as this"; and respondent's belated motion for increased legal fees was inconsistent with his claim that he had received such a substantial gift.

The Referee also identified several aggravating factors, including the vulnerability of Mr. Veneski, whom respondent himself had characterized as severely brain-damaged; respondent's lack of remorse, candor and insufficient appreciation of the seriousness of the proceedings; respondent's prior Admonition for

false notarization, which was made worse by his attempted minimization thereof; and respondent's failure to satisfy the judgment. Further, a loan respondent brokered between Mr. Veneski and another of his clients, and three other lending scenarios he proposed, constituted a pattern of improper business dealings, or at the least a lack of "appropriate sensitivity to his fiduciary responsibilities as an attorney".

The Referee noted respondent's four character witnesses, but thought their relevance was diminished because they were not aware of the precise circumstances of purported gift and Mr. Veneski's condition. As to respondent's portrayal of his participation in the funding litigation as pro bono, the Referee found the value of the services "questionable".

The Hearing Panel, after hearing argument and reviewing the record, adopted the Referee's report and recommended the sanction of disbarment.

The Committee now moves to confirm the reports of the Referee and the Hearing Panel and for an order of disbarment. Respondent opposes and requests an opportunity "to examine (or cross-examine)" Mr. Veneski. Respondent continues to insist that he was denied a hearing and due process by Justice Heitler with respect to the three orders finding misconduct, and by this Court's collateral estoppel order. He also submits affidavits, not presented to the Referee or Hearing Panel, from three

clients, requesting that he be spared any sanctions that would interfere with his continued representation.

We agree with the Referee and Hearing Panel that disbarment is the appropriate sanction (see *Matter of Harley*, 298 AD2d 49 [2002]). Respondent charged a brain-damaged client over \$500,000 more than the statutory maximum in attorney's fees. He tried to disguise those fees as a gift, and deceived his client to secure his assistance in the charade. Respondent has yet to satisfy the judgment directing him to return those fees and the over-billed disbursements, and he has a pending petition for Chapter 7 Bankruptcy relief. His other attempted and accomplished plans to obtain financing from clients demonstrate a pattern of conduct which, at best, reflects an indifference to his clients.

The Referee, who had an opportunity to observe respondent, found him to be deficient in honesty, remorse, and insight. Even at this stage of the proceeding, respondent attempts to relitigate the orders underlying the collateral estoppel finding, seeks to delay (by requesting an examination of Mr. Veneski), and tries to use clients with pending cases (the three affiants) to extricate himself from an adverse position and to the detriment of another client (the Veneskis).

No extreme mitigating circumstances are present warranting a departure from the penalty of disbarment (see *Matter of Blumstein*, 22 AD3d 163, 166 [2005]). Respondent's claim that the

gift was requested by Mr. Veneski to resolve the Core Funding litigation is belied by the fact that respondent contradictorily stated that Mr. Veneski never even knew that he had been sued, and by the fact that the Core Funding litigation was brought three years after Mr. Veneski signed the affidavit granting respondent one-third of his net recovery, "whether it be denominated a fee, gift or gratuity (a tip)" Moreover, during his deposition in LAF's New Jersey action, respondent testified that Mr. Veneski was "severely brain damaged" and suffered "extensive brain damage," and had signed an affidavit in support of a demand for a return of fees from respondent merely because counsel asked him to. Nor are respondent's efforts to shift the blame for his misconduct to LAF's principal, Mr. DeClemente, persuasive.

Accordingly, the petition to confirm the Hearing Panel's determination, confirming the Referee's report and recommendation, should be granted and respondent disbarred from the practice of law in the State of New York.

All concur.

Order filed.

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

OCT 19 2010

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

-----X

In the Matter of John James Bambury,
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-2886
for the First Judicial Department,
Petitioner,

John James Bambury,
Respondent.

-----X

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, John James Bambury, was admitted to the Bar of
the State of New York at a Term of the Appellate Division of
the Supreme Court for the First Judicial Department on
November 30, 1960.

Alan W. Friedberg, Chief Counsel, Departmental
Disciplinary Committee, New York
(Stephen P. McGoldrick, of counsel), for petitioner.

No appearance for respondent.

M-2886 (June 7, 2010)

IN THE MATTER OF JOHN JAMES BAMBURY, AN ATTORNEY

Per Curiam

Respondent John James Bambury was admitted to the practice of law in the State of New York by the First Judicial Department on November 30, 1960.¹ At all times relevant to this proceeding, respondent has maintained an office for the practice of law within the First Judicial Department.

By order entered November 21, 1985, this Court suspended respondent until further order of the Court (*Matter of Bambury*, 114 AD2d 812 [1985]). Subsequently, by order entered July 2, 1991, this Court suspended respondent for seven years nunc pro tunc to the previous order, based upon his admission that, in his role as executor, he converted \$31,000 in estate funds, as well as the mitigating evidence that he was "debilitated by alcoholism during the period covered by the charge" (*Matter of Bambury*, 169 AD2d 168, 169 [1991]). On January 21, 1993, this Court issued an order reinstating respondent (*Matter of Bambury*, 189 AD2d 704 [1993]).

The Departmental Disciplinary Committee now seeks an order pursuant to 22 NYCRR 603.4(e)(1)(i) and (iii), immediately suspending respondent until further order of the Court, based upon his noncooperation with a Committee investigation and

¹ Respondent, pro se, has not appeared in this proceeding.

uncontested evidence of professional misconduct.

On or about May 5, 2009, the Committee received a complaint from Mr. and Mrs. Horn, who retained respondent in connection with refinancing two mortgages on property that they owned. According to the complaint, respondent received \$294,500 from Llewellyn-Edison Savings Bank ("the bank"), which was to be used to pay off two of the couple's existing mortgages. The Horns claimed that respondent paid one mortgage in its full amount of \$110,845.95, but only forwarded a partial payment of \$166,295.20 for the second mortgage, instead of the entire \$185,455.79.

The Horns stated that the difference between the closing proceeds of \$294,500 and all disbursements made was \$13,240. Further, the Horns alleged that respondent informed them that he had drawn a check to himself in that amount in payment of his fee, which the Horns claim was never authorized or discussed. Attached to the complaint were copies of checks drawn on respondent's account at Bank of America entitled "The Bambury Firm Attorneys and Counselors At Law" ("the Bambury Account") and a letter dated April 21, 2009 from the bank to respondent informing him that he had not forwarded the closing documents for the Horn's refinancing, which had closed on March 6, 2009. Notably, the Bambury Account is not an escrow or IOLA account, as required, and the annexed checks show no indication that respondent drew a check to himself for \$13,240 as he allegedly

told the Horns.

The Committee forwarded a copy of the complaint to respondent, and by letter dated May 26, 2009, requested a written answer within 20 days. After being contacted twice by the Committee for his failure to comply with the request, respondent submitted an answer on June 22, 2009, in which he denied that he was ever retained as attorney by the Horns, and stated that all actions complained of were done at the direct request of the Horns.

On or about July 1, 2009, the Horns' counsel submitted a reply wherein he refuted respondent's claim that he was not the Horns' attorney and enclosed additional supporting documentation which included numerous correspondence between respondent and counsel for the bank. Following a review of all the documentation, first deputy chief counsel Sherry Cohen telephoned respondent on November 10, 2009 and requested certain records of the Bambury Account, which respondent promised to produce the next day. Respondent failed to submit the requested records.

On January 29, 2010, the Committee served respondent with subpoenas seeking production of specified records of the Bambury Account by February 10, 2010 and his appearance for a deposition on February 25, 2010. Respondent failed to produce the records, and claimed that he could not locate either subpoena when the Committee telephoned him. On February 18, 2010, the Committee

mailed two additional copies of the subpoenas to respondent's office.

The Committee telephoned respondent again when he failed to appear for his deposition or provide the subpoenaed records, and respondent claimed that he had not received the additional copies of the subpoenas. On March 8, 2010, at respondent's residence, a Committee investigator effectuated personal service on respondent of two more copies of the subpoenas, along with a letter from the Committee stating that respondent had until March 17, 2010 to produce the records, that his deposition had been rescheduled for March 25, 2010, and that if he failed to produce the records and/or appear for his deposition, the Committee would move for his immediate suspension.

When respondent did not provide any records or appear for his deposition, the Committee subpoenaed Bank of America to produce all statements, deposit slips and canceled checks from the Bambury Account for the period of January through November 2009. The bank records show that on March 6, 2009, respondent received \$294,500 in loan proceeds on behalf of the Horns, and disbursed a total of \$281,260 on March 25, 2010, thereby leaving an undisbursed loan balance of \$13,240. The closing balance for respondent's bank account for March 2009 was \$17,948.54, which indicates that all but \$4,708.54 of the funds on deposit were attributable to the Horns' remaining loan proceeds.

Further, the bank records show that between April and October 2009, respondent issued various checks to parties unrelated to the Horns' refinancing. As of October 31, 2009, the balance in respondent's bank account was \$3,548.06, and the remaining funds from the Horns refinancing in respondent's bank account was supposed to total \$13,240.

The Committee now alleges that respondent's failure to comply with the two judicial subpoenas issued by this Court seeking his bank records and his appearance at a deposition "evinces a shocking disregard for the judicial system... [which] can only be interpreted as a deliberate and willful attempt to impede the Committee's investigation" warranting his suspension pursuant to 22 NYCRR 603.4(e)(1)(i) (*Matter of Mager*, 282 AD2d 88, 91-92 [2001] quoting *Matter of Gordon*, 142 AD2d 135, 137 [1988]; *Matter of Fish*, 57 AD3d 112 [2008]; *Matter of Spiegler*, 33 AD3d 187 [2006])). This Court has held that misconduct similar to respondent's immediately threatens the public interest and warrants an interim suspension.

Accordingly, the Committee's motion for an order pursuant to 22 NYCRR 603.4(e)(1)(i) and (iii) should be granted, and respondent suspended from the practice of law, effective immediately, and until further order of this Court.

All concur.

Order filed.

PM ORDERS

ENTERED

OCTOBER 19, 2010

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

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

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

-against-

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

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

-against-

Church of St. Bernard,
Defendant.

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

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

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

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

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

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

ENTER:

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

Clerk

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

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

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

-against-

M-4832
Index No. 602509/08

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

-against-

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

-----X

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

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

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

It is ordered that the motion is granted.

ENTER:



Clerk.

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

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

-----X

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

-against-

M-4790
Index No. 114518/09

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

-----X

Defendant-appellant Howard A. Suckle having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about July 9, 2010,

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

It is ordered that the motion is granted to the extent of continuing interim relief granted by an order of a Justice of this Court dated September 23, 2010.

ENTER:



Clerk.

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

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

-----X

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

Richard R. Ranftle,
Petitioner-Appellant,

J. Craig Leiby,
Respondent-Respondent.

-----X

M-4786

M-4917

Index No. 4585/08

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

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

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

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

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

ENTER:



Clerk.

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

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

-----X
Charles Udoh,
Plaintiff-Appellant,

-against-

Inwood Gardens, Inc., et al., M-4162
Defendants-Respondents. Index. No. 126690/02
-----X

Plaintiff-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about August 4, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon submission of a copy of the notice of appeal from the judgment duly entered with respect to the above-captioned action.

ENTER:



Clerk.

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

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

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

-against-

M-4850
Index No. 101247/07

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

Defendants-respondents having moved to adjourn the appeal from an order of the Supreme Court, New York County, entered on or about June 16, 2009,

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

It is ordered that the motion is granted to the extent of adjourning the aforesaid appeal to the January 2011 Term.

ENTER:



Clerk.

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

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

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

-against-

M-5017
Index No. 16463/00

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

St. Spyridon Greek Orthodox Church,
Defendant.

-----X

Defendant-appellant having moved for an order staying the trial in the above-entitled action pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about June 8, 2010,

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

It is ordered that the motion is granted upon the same terms and conditions as contained in the interim order of a Justice of this Court dated October 6, 2010.

ENTER:



Clerk.

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

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

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

-against-

M-4846
Index No. 650242/09

Bureau Veritas (BVSA),
Defendant-Appellant,

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

-----X
(And other actions)

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

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

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

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

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

ENTER:

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

Clerk.

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

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

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

-against-

M-4613
Index No. 603915/09

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

-----X

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

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

It is ordered that the motion is denied.

ENTER:



Clerk.