

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

-----X
Ricky Wong,
Plaintiff-Appellant,

-against-

M-1375
Index No. 307861/08

Kristina Chang,
Defendant-Respondent.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 17, 2008 (mot. seq. no. 001),

Now, upon reading and filing the stipulation of the parties hereto, filed March 15, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the April 2010 Term, is withdrawn in accordance with the aforesaid stipulation.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 April 20, 2010.

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

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

Plaintiff-Appellant,

-against-

M-462
Index No. 603473/08

Parkcentral Global Hub Limited,

Defendant-Respondent.
-----x

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about October 30, 2009 (mot. seq. no. 005),

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties filed March 17, 2010, and due deliberation having been had thereon,

It is ordered that the appeal and motion are deemed withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Karla Moskowitz
Helen E. Freedman
Rosalyn H. Richter
Nelson S. Román, Justices.

-----X
Cara Kodjovi, and infant by her
mother and natural guardian,
Marjory Kodjovi,
Plaintiff-Appellant,

-against-

M-888
Index No. 116889/06

Trustees of Columbia University
in the City of New York,
Defendant-Respondent.
-----X

Appeals having been taken from an order and judgment of the Supreme Court, New York County, entered on or about May 7, 2009 (mot. seq. no. 001) and June 5, 2009, respectively,

And plaintiff-appellant having moved to withdraw the appeal from said order of the Supreme Court, New York County, entered on or about May 7, 2009 and 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 June 5, 2009,

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

It is ordered that the appeal taken from the order entered on or about May 7, 2009 is withdrawn. The time in which to perfect the appeal from the judgment entered on or about June 5, 2009 is enlarged to the September 2010 Term.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Karla Moskowitz
Helen E. Freedman
Rosalyn H. Richter
Nelson S. Román, Justices.

-----X
Weiser LLP,

Plaintiff-Appellant,

SEALED

-against-

M-922
Index No. 601805/05

Jeffrey S. Coopersmith, et al.,

Defendants-Respondents.
-----X

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

And defendants-respondents having moved to strike a certain portion of plaintiff-appellant's brief,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Sarah Jenson, Esq., of Torys LLP, counsel for defendants-respondents dated March 3, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

-----x
In Re: New York City Asbestos Litigation

This Document Relates To: M-1230

Jozef Czukiewski	Index No. 190059/09
Michael Gubernik	Index No. 190055/09
Marvin Olarsch	Index No. 190135/09
John Sakatis	Index No. 190146/09
Charles Zukaitis	Index No. 190068/09

Plaintiffs-Respondents,

-against-

A.O. Smith Water Products Co., et al.,
Defendants,

-and-

Kohler Co.,
Defendant-Appellant.

-----x
Defendant-appellant having moved, pursuant to CPLR 5519(c), for a stay of all proceedings pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about March 5, 2010,

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

It is ordered that the motion 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 April 20, 2010.

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

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

-against-

M-1146
Ind. Nos. 5494N/04
6241/09

Erin Anderson,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about January 19, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER: 
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1147
Ind. No. 4027/08

Shawn Caldwell,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about July 2, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1148
Ind. No. 508/09

Calvin Delorbe,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about September 25, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 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-1149
Ind. No. 5474/08

Milton Gonzalez,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about February 2, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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 April 20, 2010.

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

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

-against-

M-1151
Ind. No. 3824/06

Walter K. Hurdle,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, Bronx County, rendered on or about January 15, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER: 
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1152
Ind. No. 54/07

Mark James, also known as Mark
Townsend,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about February 8, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1155
Case No. 5300C/08

Ramon Lopez,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, Bronx County, rendered on or about November 13, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1156
Ind No. 3662/07

Franklin F. Medina-Gonzalez,
Defendant-Appellant.
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, Bronx County, rendered on or about June 29, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1158
Ind No. 410/09

Johntel E. Richardson,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about June 30, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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 April 20, 2010.

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

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

-against-

M-1159
Ind. No. 3743/06

Roger Silvestre,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, Bronx County, rendered on or about January 26, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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 April 20, 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-1160
Ind No. 1458/04

Gerard Spann,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about February 5, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1162
Ind. No. 4650/09

Bobby Weekfall,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about February 9, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1163
Ind Nos. 2432/01
4365/01

Darryl West,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about November 17, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1164
Ind. No. 1682/09

Winston Darnell,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about January 28, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

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

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 April 20, 2010.

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

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

-against-

M-390
Ind. No. 2210/03

Roosevelt Mack,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of **resentence** of the Supreme Court, New York County, entered on or about January 14, 2010, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

-----x
Mode Contempo, Inc.,

Plaintiff-Appellant-Respondent,

-against-

M-762
Index No. 117085/08

Raymours Furniture Company, Inc.,

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

An appeal and cross appeal having been taken to this Court from the order and judgment of the Supreme Court, New York County, entered on or about April 6, 2009 and on or about April 8, 2009, respectively,

And defendant-respondent-appellant having moved for dismissal of the direct appeal for failure to timely perfect,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated February 19, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

-----x
Nehal Vadhan, et al.,

Plaintiffs-Respondents,

-against-

M-743
Index No. 105281/07

Cecilio Sanchez, et al.,

Defendants-Appellants.
-----x

Defendants-appellants having moved for a stay of trial pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about October 20, 2009 (mot. seq. no. 001),

Now, upon reading and filing the papers with respect to the motion, and the correspondence from William A. Sicheri, Esq., of Callihan & Fusco LLC, counsel for defendants-appellants dated February 23, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David B. Saxe
David Friedman
Eugene Nardelli
James M. Catterson, Justices.

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

-against-

M-1222
Ind. Nos. 5476/08
1628/09

Jose Rivera,
Defendant-Appellant.
-----X

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

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

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

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David B. Saxe
David Friedman
Eugene Nardelli
James M. Catterson, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-1216
Ind. No. 4672/09

Artis Bellinger,

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 18, 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 facts sufficient to establish that defendant has no funds or assets with which to prosecute the appeal, including the specific amount of funds in his bank accounts and 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 April 20, 2010.

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

-----x
Intrepid Aircraft Leasing (France)
Sarl,
Plaintiff-Respondent,

-against-

M-671
Index No. 650416/09

Closed Joint Stock Company Aerosvit
Airlines, doing business as Aerosvit
Airlines Corp.,
Defendant-Appellant.

-----x

Defendant-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about October 13, 2009,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated February 19, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

-----X
Estate of John P. Lantz, M.D.,
Plaintiff-Appellant,

-against-

M-521
Index No. 111961/09

L-M Dialysis Corporation,
Defendant-Respondent.

-----X
In The Matter of the Application of
John P. Lantz, M.D.,
Petitioner-Appellant,

-against-

M-522
Index No. 112083/08

For the Dissolutions of
Lower Manhattan Dialysis Center, Inc.,
L-M Dialysis Center, Inc., Lantz-Matalon
Chinatown Associates Inc., all Domestic
Corporations,

And for the Dissolution of Chinatown
Dialysis Center, L.L.C., a Domestic Limited
Liability Company,
Respondents-Respondents.

-----X

Appeals having been taken in each of the above actions from judgments of the Supreme Court, New York County, entered on or about November 19, 2009 and November 25, 2009, respectively,

And the respective respondents having moved by separate motions to dismiss the aforesaid appeals (M-521/M-522),

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 to dismiss the appeals are granted, unless said appeals which are *sua sponte* consolidated, are perfected for the September 2010 Term. Upon failure to so perfect, an order dismissing the appeals may be entered ex parte, provided the respondents serve a copy of this order upon the appellant within ten days after the date of entry hereof.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Eugene Nardelli
Sheila Abdus-Salaam, Justices.

-----X
Chung Seng Yu and Cecilia Yu,
Petitioners,

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

The New York City Department of
Housing Preservation and Development,
Respondent,

M-691
M-937
Index No. 11276/07

Chinatown Apartments, Inc.
Respondent-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 April 25, 2008 (mot. seq. no. 001),

And respondent Chinatown Apartments, Inc. having moved for dismissal of the aforesaid proceeding (M-691),

And Municipal respondent New York City Department of Housing Preservation and Development having cross-moved for dismissal of said proceeding (M-937),

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

It is ordered that the motion and cross motion are granted and the proceeding 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 April 20, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Karla Moskowitz
Rolando T. Acosta
Dianne T. Renwick, Justices.

-----X
Kersti Ferguson and William DeRosa,
Plaintiffs-Appellants,

-against-

Sherman Square Realty Corp.,
Leonid Dobrushin, George Gokea,
Robert A. Siegel, Brian N. Becker,
Joel B. Rudin and Naomi Haber,
Defendants-Respondents,

M-429
M-755
M-825

Index No. 108625/04

Kayle Watson, Harold Koenigsberg,
also known as Harold Kongsberg,
Diane Wilner, Lance Warrick,
Rajiv Gulati, Shelly Bengis,
Laura Seigal, also known as Laura
Hack, Larry Seigal, Shari Leigh
Gordon and Helen Warrick,
Defendants.

-----X

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

And defendant-respondent Brian N. Becker having moved for dismissal of the aforesaid appeal (M-429),

And defendants-respondents Sherman Square Realty Corp., Leonid Dobrushin, George Gokea and Robert A. Siegel (M-755), and defendants-respondents Joel B. Rudin and Naomi Haber (M-825) having cross moved for dismissal 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 and cross motions 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 April 20, 2010.

PRESENT: Hon. Angela M. Mazzairelli, Justice Presiding,
David Friedman
Leland G. DeGrasse
Sheila Abdus-Salaam
Sallie Manzanet-Daniels, Justices.

-----X
Maria Ovando,
Plaintiff-Appellant,

-against-

M-587
Index No. 18395/03

New York City Housing Authority
and Chatterjee International
Contracting Corp.,
Defendants-Respondents.

-----X
Chatterjee International
Contracting Corp.,
Third-Party Plaintiff,

-against-

Westchester Fire Insurance Company,
Third-Party Defendant.

-----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 February 19, 2009, 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 in its entirety 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 April 20, 2010.

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

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

-against-

M-1244
Ind. No. 6358/03
490/04

Anthony Steward,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about February 24, 2010, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceeding before Judge Allen, if any. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

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

-against-

M-1214
Ind. No. 3944/07

Michael Lewis,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, Bronx County, rendered on or about January 8, 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.

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 April 20, 2010.

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

-----X
Leota Susan Branche,
Plaintiff-Respondent,

-against-

Douglas V. Holloway,
Defendant-Appellant.

M-533
Index No. 304723/08

-----X

Defendant-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about January 6, 2010 (mot. seq. no. 005),

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

It is ordered that the motion is 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 April 20, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Rolando T. Acosta
Sheila Abdus-Salaam, Justices.

-----X
Amcan Holdings, Inc., et al.,
Plaintiffs-Appellants-Respondents,

-against-

M-1108
Index No. 603393/07

Canadian Imperial Bank of Commerce,
Defendant-Respondent-Appellant,

Canadian Imperial Holdings, Inc., et al.,
Defendants.

-----X

Plaintiffs-appellants-respondents having moved for reargument of or, in the alternative, leave to appeal to the Court of Appeals from the decision and order of this Court entered on February 4, 2010 (Appeal No. 1459),

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 April 20, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
James M. Catterson
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Leonard Salati,
Plaintiff-Appellant-Respondent,

-against-

M-1005
Index No. 101999/05

Janet Jackson, et al.,
Defendants-Respondents,

Knight Time Security of New York,
Inc., doing business as Titan
Security, Inc.,
Defendant-Respondent-Appellant.

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

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

And defendant-respondent-appellant having moved to stay trial pending hearing and determination of the aforesaid appeal and cross appeal,

Now, upon reading and filing the papers with respect to the motion, including the correspondence dated April 9, 2010, from Steven H. Rosenfeld, counsel to defendant/third-party defendant 10th Avenue Hospitality Group, LLC, doing business as Club Marquee, and due deliberation having been had thereon,

It is ordered that the motion is dismissed, as academic, the underlying action having been settled. The interim order of a Justice of this Court, dated February 25, 2010, staying all proceedings in this action is hereby vacated.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

-----X
JPMorgan Chase Bank, N.A.,
Plaintiff,

-against-

Faith Ministries, Inc. and Lydia
Withrow,
Defendants,

M-1296
Index No. 600116/10

-and-

New York State Department of Taxation
and Finance, et al.,
Defendants.

-----X

Defendant Lydia Withrow having moved, pursuant to CPLR 5704(a), for vacatur of the ex parte order of the Supreme Court, New York County, entered on or about February 11, 2010, and for other relief,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Matthew Hearle, Esq., of Goldberg Weprin Finkel Goldstein LLP dated March 17, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

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

-----X
Juan Portillo,

Plaintiff-Appellant,

-against-

M-731
Index No. 103803/07

New York City Transit Authority,

Defendant-Respondent.
-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about August 10, 2009 (mot. seq. no. 001),

Now, upon reading and filing the papers with respect to the motion, and the correspondence from William Pager, Esq., counsel for plaintiff-appellant dated March 12, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 20, 2010.

Present - Hon. David Friedman,
Karla Moskowitz
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román,

Justice Presiding,

Justices.

-----X
Dragisa Jovicevic,
Plaintiff-Respondent/Respondent,

-against-

M-414
Index No. 108337/06

Structure Tone, Inc., Donnelly
Mechanical Corp. and Latham & Watkins,
LLP,
Defendants-Appellants/Respondents.

-----X
Donnelly Mechanical Corp.,
Third-Party Plaintiff-Respondent,

Third-Party
Index No. 591085/06

-against-

Alfa Piping Corp.,
Third-Party Defendant-Appellant.

-----X

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about March 4, 2009 (mot. seq. no. 004),

And an appeal having been taken to this Court from the order of said Supreme Court entered on or about March 9, 2009 (mot. seq. no. 005),

And third-party defendant Alfa Piping Corp. having moved for consolidation of the aforesaid appeals,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Marcia K. Raicus, Esq., of Smith Mazure, counsel for third-party defendant, dated January 29, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

APR 20 2010

David Friedman, Justice Presiding,
Karla Moskowitz
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

-----x

In the Matter of Bjorn J. Holubar,
(admitted as Bjorn Jeffery Holubar),
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-464
for the First Judicial Department,
Petitioner,

Bjorn J. Holubar,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Bjorn J. Holubar, was admitted to the Bar of
the State of New York at a Term of the Appellate Division
of the Supreme Court for the Second Judicial Department on
December 17, 1997.

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

No appearance for respondent.

M-464 (February 9, 2010)

IN THE MATTER OF BJORN J. HOLUBAR, AN ATTORNEY

PER CURIAM

Respondent Bjorn Jeffery Holubar was admitted to the practice of law in the State of New York by the Second Judicial Department on December 17, 1997. At all times relevant to the misconduct which underlies this proceeding, he maintained an office for the practice of law within the First Judicial Department.

Between July 2009 and November 2009, respondent became the subject of seven separate and unrelated complaints, each alleging professional misconduct. Two of these complaints were initiated sua sponte by the Departmental Disciplinary Committee (Committee) and the other five were filed by respondent's former clients.

The First complaint, dated July 29, 2009, alleged that respondent engaged in frivolous conduct inasmuch as he initiated two separate law suits, each sounding in defamation, which had no basis in law nor fact thereby resulting in sanctions. The second complaint, dated August 10, 2009, alleged that respondent, *inter alia*, unlawfully deposited client funds into his business operating account rather than into his IOLA account and that he then used those funds for personal expenses.

With respect to the remaining five complaints, all made by respondent's clients, we need only discuss the first. On July

21, 2009, Fritz Solberg (Solberg), respondent's former client, made a complaint to the Committee against respondent. In his complaint, Solberg alleged that he retained respondent to aid him in prosecuting a patent. Solberg paid respondent \$3,500 but thereafter decided that he no longer wished to pursue the patent. Respondent agreed to refund a portion of Solberg's fee, but despite numerous telephone calls over the course of several months, respondent never refunded any of Solberg's money. Solberg sued respondent in the First District Court in Suffolk County, New York, and was awarded judgment against the respondent in the sum of \$3082.19. Solberg's complaint was accompanied by a copy of the judgment against respondent.

Based on these complaints, the Committee initiated an investigation, providing respondent with copies of each complaint and requesting written explanations. Despite the Committee's initial correspondence and numerous voice messages, respondent did not answer any of the complaints. On October 19, 2009, respondent personally appeared at the Committee's office, promising to respond to all complaints existing at that time. Despite an additional letter sent to the respondent by the Committee, respondent failed to provide the promised answers. On November 30, 2009, respondent, still having provided no answers to the complaints, sent an e-mail to the Committee indicating that he wished to resign from the practice of law and asking for

a sample resignation affidavit, which was provided. On December 7, 2009, after e-mail requests seeking respondent's consent to be served with a subpoena via e-mail had gone unanswered, the Committee personally served respondent with a subpoena ordering respondent's attendance at a deposition and seeking production of documents. On December 9, 2009, respondent e-mailed the Committee seeking to adjourn the return date on the subpoena and during a subsequent telephone conversation respondent reiterated the same. Since that time, despite an additional letter by the Committee and several voice messages left on respondent's telephone, he has failed to contact the Committee or otherwise comply.

The Committee now petitions this Court for an order pursuant to 22 NYCRR 603.4(e)(1), immediately suspending respondent from the practice of law pending further order of this Court on grounds that respondent's failure to comply with the Committee's multiple requests, related to its investigation of complaints made against respondent, constitutes professional misconduct which threatens the public interest (22 NYCRR 603.4[e][1][i]). The Committee seeks respondent's immediate suspension on the additional ground that respondent's refusal to satisfy a debt owed to a prior client, the debt evinced by a judgment, constitutes professional misconduct which also threatens the public interest (22 NYCRR 603.4[e][1][iv]).

Pursuant to 22 NYCRR 603.4(e)(1), "[a]n attorney who is the subject of an investigation, or of charges by the Departmental Disciplinary Committee of professional misconduct...may be suspended from the practice of law, pending consideration of the charges against the attorney, upon a finding that the attorney is guilty of professional misconduct immediately threatening the public interest." Misconduct will be found when the attorney fails "to comply with any lawful demand of this court or the Departmental Disciplinary Committee made in connection with any investigation, hearing or disciplinary proceeding" (22 NYCRR 603.4[e][1][i]), or upon "the attorney's willful failure or refusal to pay money owed to a client, which debt is demonstrated by an admission, a judgment, or other clear and convincing evidence" (22 NYCRR 603.4[e][1][iv]).

Thus, failure to comply with the Committee's demands made in connection with an investigation is grounds for immediate suspension from the practice of law (*Matter of Burke*, 54 AD3d 70, 74-75 [2008]; *Matter of Fish*, 57 AD3d 112, 113-114 [2008]; *Matter of Stewart*, 50 AD3d 247, 249 [2008]; *Matter of Lefrak*, 46 AD3d 56, 58-59 [2007]; *Matter of Zimmerman*, 45 AD3d 212, 214 [2007]; *Matter of McClain-Sewer*, 39 AD3d 35, 36 [2007]; *Matter of Spiegler*, 33 AD3d 187, 189-190 [2006]; *Matter of Mui*, 303 AD2d 86, 87 [2003]; *Matter of Gordon*, 142 AD2d 135, 137 [1988]). This is especially true when the failure to comply is persistent since

such behavior evinces willful noncompliance (*McClain-Sewer* at 36; *Spiegler* at 190), a shocking disregard for the judicial system and the Committee's investigation (*Burke* at 75; *Fish* at 114; *Lefrak* at 59; *Muri* at 87; *Gordon* at 137), and an attempt to impede the Committee's investigation (*Fish* at 114; *Gordon* at 137).

Similarly, immediate suspension is also warranted when it is demonstrated that despite a money judgment, an attorney has refused to pay money owed to a client (*Fish* at 114; *Stewart* at 248-249; *Matter of Singer*, 301 AD2d 336, 367 [2002]; *Matter of Harley*, 746 NYS2d 137, 140 [2001]).

Based on the foregoing, it is clear that respondent in shocking disregard to the Committee's investigation, has engaged in conduct evincing willful noncompliance designed to impede the Committee's efforts. Despite the Committee's repeated attempts to exact compliance with its demands, e.g., letters, telephone calls, e-mails and a subpoena, respondent has at best, strung the Committee along, promising compliance but never actually providing the same. Thus, the Committee's application seeking respondent's immediate suspension is granted (22 NYCRR 603.4[e][1][i]). Moreover, inasmuch as respondent has refused to pay a debt owed to his former client, said debt evinced by a judgment obtained against respondent, he is guilty of additional professional misconduct which threatens the public interest and

his immediate suspension is thus warranted (22 NYCRR 603.4[e][1][iv]).

Accordingly, The petition should be granted pursuant to 22 NYCRR 603.4(e)(1)(i) and (iv), and respondent is suspended from the practice of law, effective immediately, and until further order of this Court.

All concur.

Order filed.

PM ORDERS

ENTERED

APRIL 15, 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 April 15, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X
Chrisette Michelle Payne,

Plaintiff-Appellant,

-against-

M-1555

Index No. 602283/07

Douglas Ellison and Four Kings
Productions, Inc.,

Defendants-Respondents.
-----X

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about April 5, 2009 (mot. seq. no. 005) and on or about August 20, 2009, respectively,

And Dwane Smith PLLC (Dwane K. Smith, of counsel) and Meyerowitz Jekielek, PLLC having moved to be relieved as counsel for defendants-respondents,

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 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 April 15, 2010.

Present: Hon. Peter Tom, Justice Presiding,
David B. Saxe
David Friedman
Eugene Nardelli
James M. Catterson, Justices.

-----X

Manuel P. Asensio,
Plaintiff-Appellant,

-against-

M-1318

Index No. 100257/10

Casa 74th Development, LLC and Starr
Associates, LLP,
Defendants-Respondents.

-----X

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

And plaintiff having moved for an order staying the cancellation of the Lis Pendens and for related relief pending hearing and determination of the appeal,

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

Ordered that the motion is granted to the extent of continuing the injunctive relief granted by the order of a Justice of this Court, dated March 12, 2010, upon the condition that plaintiff-appellant perfects the aforesaid appeal on or before July 12, 2010 for the September 2010 Term, and upon the further condition that, within 20 days of the date of entry hereof, plaintiff-appellant withdraw any administrative petition or request for return of the initial payment received by defendant LLC on or about March 5, 2008, which is to remain in escrow with counsel for defendants pending hearing and determination of the appeal. Should appellant's fail to comply with either of the aforesaid conditions, an order vacating the stay may be entered ex parte, provided that respondents serve a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

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

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

Bernard Cylich and Yolanda Canales
Schumann,
Petitioners,

For a Judgment Pursuant to Article 78
of the CPLR

M-1599
Index No. 260294/09

-against-

Riverbay Corporation,
Respondent.

-----X

An Article 78 proceeding having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, Bronx County, entered on or about March 2, 2010, to review a determination of respondent,

And the petitioners having moved in the nature of a preliminary appellate injunction to stay 2010 election of members of the respondent Board, or for alternative and/or related relief,

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

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 15, 2010.

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

-----X
Hilario Martinez,
Plaintiff-Appellant-Respondent,

-against-

M-1604
Index No. 20496/02

Hunts Point Cooperative Market, Inc.,
Defendant-Respondent,

-and-

Lisa Motor Lines and Frozen Food Express
Industries, Inc.,
Defendants-Respondents-Appellants.

-----X
Hunts Point Cooperative Market, Inc.,
Third-Party Plaintiff-Respondent,

-against-

Index No. 83609/03

Nebraskaland, Inc, doing business as
Cornhusker Farms, Inc., and
Cornhusker Farms, Inc.,
Third-Party Defendants-Respondents.

-----X

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

And plaintiff-appellant-respondent Hilario Martinez having moved for an order enlarging the record on appeal and for additional argument time,

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 insofar as it seeks to enlarge the record. The motion to the extent it seeks to extend the time allotted for argument is denied without prejudice to seeking this relief by letter addressed to the Clerk of this Court.

ENTER:



Clerk.

PM ORDERS

ENTERED

APRIL 20, 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 April 20, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Karla Moskowitz
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

Jeffrey Squitieri,
Plaintiff-Respondent,

-against-

M-1234
Index No. 350138/06

Beth Squitieri,
Defendant-Appellant,

Susan Y. Kunstler, Esq.,
Non Party-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about June 24, 2009, and said appeal having been perfected,

And an order of this Court having been entered on January 19, 2010 (M-5257/M-5433), granting defendant-appellant a stay of enforcement of the lien/judgment of the aforesaid court entered on or about July 20, 2009 on condition defendant perfects the appeal for the May 2010 Term, and which provided that upon failure to so perfect, non-party respondent may move to vacate the stay,

And non-party respondent having moved for dismissal of said appeal for failure to perfect by the aforesaid deadline; vacatur of the stay afforded defendant in the order of this Court entered on or about January 19, 2010 (M-5257/M-5433); an order striking the appendix and brief and directing submission of a corrected appendix and brief; leave to file a respondent's appendix, certain costs, 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 granting non-party respondent leave to file a supplemental appendix at her own expense said appendix and a respondent's brief to be filed on or before August 11, 2010 for the September 2010 Term, to which Term the perfected appeal is adjourned. The motion is otherwise denied.

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 April 20, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,
John W. Sweeny, Jr.
Dianne T. Renwick
Sheila Abdus-Salaam
Sallie Manzanet-Daniels, Justices.

-----x

Lancer Trust, etc.,

Plaintiff,

-against-

M-1545

Index No. 116225/09

141 Acquisition Associates LLC,
et al.,

Defendants.

-----x

Plaintiff having moved, pursuant to CPLR 5704(a), for affirmative relief denied in an order to show cause of a Justice of the Supreme Court, New York County, on March 10, 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 April 20, 2010.

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

-----X
Verizon Directories, Corp.,
Plaintiff-Appellant,

-against-

Continuum Health Partners, Inc.,
Defendant-Respondent.

M-1560
Index No. 117782/05

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 21, 2009, and said appeal having been perfected,

And defendant-respondent having moved for leave to file the supplemental record on appeal which is annexed to the moving papers as "Exhibit A", 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 and defendant is directed to immediately file the requisite number of copies of the supplemental 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 April 20, 2010.

PRESENT - Hon. Eugene Nardelli, Justice Presiding,
James M. McGuire
Rolando T. Acosta
Helen E. Freedman
Nelson S. Román, Justices.

-----X
RNK Capital LLC, Grey K Environmental
Fund, LP, and Grey K Environmental
Offshore Fund, Ltd.,
Plaintiffs-Respondents,

-against-

M-1634
Index No. 603483/06

Natsource LLC, Natsource Asset Management
LLC, Natsource Transaction Services LLC,
Natsource Europe Ltd., Natsource Japan Co.,
Ltd., Ben Richardson, Michael Intrator,
David Oppenheimer, and Jack Cogen,
Defendants-Appellants.

-----X
Appeals having been taken from the orders of the Supreme Court, New York County, entered on or about July 10, 2009 (mot. seq. no. 004) and February 17, 2010 (mot. seq. nos. 006, 007, 008, 009, 010) [Calendar No. 613], respectively,

And plaintiffs-respondents having moved to dismiss the appeal from the order of the Supreme Court, New York County, entered on or about February 17, 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, without prejudice to addressing the issues directly on appeal which is, sua sponte, consolidated with the appeal [Calendar No. 239] from the order of the Supreme Court, New York, entered on or about October 28, 2009 (mot. seq. no. 005) to the extent of hearing the appeals together.

ENTER:



Clerk.