

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 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-

Darren Felix,

Defendant-Appellant.  
-----X

M-4709

Ind. No. 3449/03

An appeal having been taken from the judgment of the Supreme Court, Bronx County, rendered on or about October 4, 2007,

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

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

*David Apolony*  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X  
Maria Callarame,

Plaintiff-Appellant,

-against-

M-4900X  
Index No. 12334/03

Hemant Haimindra,

Respondent-Respondent.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about March 29, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 30, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 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-

Steven Morel,

Defendant-Appellant.  
-----X

M-4906

Ind. No. 5508/08

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about October 28, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated September 28, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X  
Critical Care Systems International,  
Inc.,  
Plaintiff-Respondent,

-against-

M-5208X  
Index No. 602016/09

Accredo Health Group, Inc.,  
Defendant-Appellant.  
-----X

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

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 19, 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 November 16, 2010.

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

-----X  
Latipac Corp.,  
Plaintiff-Appellant,

-against-

M-5261X  
Index No. 109339/09

Estate of E. Valerie Klaus, et al.,  
Defendants-Respondents.  
-----X

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

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 21, 2010, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X  
Lindsay Lohan,  
Plaintiff-Appellant,

-against-

E\*Trade Securities LLC, et al.,  
Defendants-Respondents.  
-----X

M-5262X  
Index No. 601016/10

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

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 21, 2010, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X  
Jessica Stoeckel,  
Plaintiff,

-against-

M-5265  
Index No. 103204/04

Fraydun Manocherian, United Enterprises,  
a limited partnership, Pan Am Equities,  
H. Lieblich and Company, Inc. and  
Robert Flannenbaum,  
Defendants.

-----X  
H. Lieblich & Company, Inc. and  
Robert Flannenbaum,  
Third-Party Plaintiffs,

-against-

Third Party  
Index No. 591073/04

H.B. Smith, Smith Cast Iron Boilers,  
Westcast, Inc., Mestek, Inc. and  
Power Flame, Inc.,  
Third-Party Defendants.

-----X  
Fraydun Manocherian, United Enterprises,  
a limited partnership and Pan Am Equities,  
Second Third-Party Plaintiffs,

-against-

Second Third Party  
Index No. 590527/05

Consolidated Edison Company of New York,  
Inc., Dresser, Inc., Dresser Industries,  
Inc., Dresser Equipment Group, Inc. and  
New York Dresser,  
Second Third-Party Defendants.

-----X

Appeals having been taken from the order of the Supreme Court, New York County, entered on or about January 27, 2010 (mot. seq. no. 010), by third party defendant-appellant Power Flame Inc. and by defendants/second third party plaintiffs-appellants Fraydun Manocherian, United Enterprises, a limited partnership and Pan Am Equities.

Now, upon reading and filing the stipulation of the parties hereto, filed October 21, 2010, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X  
Jessica Hernandez,  
Plaintiff-Respondent,

-against-

M-4347  
Index No. 3072/07

William Hernandez,  
Defendant-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about October 28, 2008,

Now, upon reading and filing the correspondence from Sergio Villaverde, Esq., counsel for defendant appellant, dated August 11, 2010, and the notice of discontinuance (appeal) and stipulation of settlement (action) annexed thereto, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the December 2010 Term, is withdrawn, the underlying action having been settled.

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 November 16, 2010.

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

-----X  
American International Group,  
Plaintiff,

-against-

M-5352X  
Index No. 106781/05

Choice Logistics,  
Defendant.

-----X  
(And third-party actions)  
-----X

Appeals having been taken from the orders of the Supreme Court, New York County, entered on or about August 17, 2009 (by defendant/third-party plaintiff Choice Logistics), and from the order of said Court entered on or about June 23, 2010 (by second third-party defendant Remco Air Conditioning Company Inc.),

Now, upon reading and filing the stipulation of the parties hereto, "so ordered" October 25, 2010, and due deliberation having been had thereon,

It is ordered that the appeal from the order entered on or about August 17, 2009, previously perfected for the June 2010 Term, and the appeal from the order entered on or about June 23, 2010, 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 November 16, 2010.

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

-----X  
American International Group,  
Plaintiff,

-against-

M-5353X  
Index No. 106781/05

Choice Logistics,  
Defendant.  
-----X  
(And other actions) -----X  
-----X

An appeal having been taken by Rimco Air Conditioning Company, Inc. from the order of the Supreme Court, New York County, entered on or about June 23, 2010 (mot. seq. no. 007),

Now, upon reading and filing the stipulation of the parties hereto, "so ordered" October 25, 2010, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X  
In the Matter of

Henry Sanders,

An Incapacitated Person.

-----  
P. Gregory Hess, As Executor of the  
Estate of Henry Sanders,  
Executor-Respondent,

M-4753  
Index No. 91775/04

Sandra M. Prowley,  
Co-Guardian Appellant.

-----X

An appeal having been taken to this Court from orders of the Supreme Court, Bronx County, entered on or about February 10, 2009, May 4, 2009, June 5, 2009, August 20, 2009 and September 15, 2009, respectively,

And executor-respondent having moved to strike appellant's appendix and brief and 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 is granted to the extent of dismissing 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 November 16, 2010.

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

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

-against-

M-4625  
Ind. No. 5033/09

Chris Grant,  
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 March 15, 2010, and for leave to prosecute the appeal as a poor person on the original record and upon a reproduced appellant's brief, and for assignment of counsel,

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

It is ordered that the motion is granted to the extent of deeming the 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 copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

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

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

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

-against-

M-4571  
Ind. No. 1627/01

Derrick Ties,  
Defendant-Appellant.

-----X

An order of this Court having been entered on August 31, 2010 (M-3468) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of **resentence** of the Supreme Court, New York County, rendered on or about June 3, 2010,

And assigned counsel, Richard M. Greenberg, Esq., having moved for an order to be relieved as counsel for defendant and to substitute other counsel to prosecute defendant's 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 striking the designation of assigned counsel Richard M. Greenberg, 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 November 16, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Eugene Nardelli  
Leland G. DeGrasse, Justices.

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

-against-

M-3970  
Ind. No. 5382/04

George Leeper,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on February 13, 2007 (Appeal No. 220), unanimously affirming a judgment of the Supreme Court, New York County (Michael R. Ambrecht, J.), rendered on April 11, 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 November 16, 2010.

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

-----X  
Lucia Giraldi,  
Plaintiff-Appellant,

-against-

M-5089  
Index No. 302379/08

New York City Department of Education,  
Defendant-Respondent.  
-----X

Plaintiff-appellant having renewed her motion for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about May 21, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, for an enlargement of time in which to perfect said 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, to the extent it seeks an enlargement of time in which to perfect the appeal, is denied and the appeal is dismissed. So much of the motion which seeks poor person relief is denied, as academic.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X  
Esther Gutierrez,  
Plaintiff-Respondent-Appellant,

-against-

M-4552  
Index No. 14501/04

Broad Financial Center, LLC,  
Defendant-Respondent,

Shindler Elevator Corporation,  
Defendant-Appellant-Respondent.  
-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about November 9, 2009,

And plaintiff-respondent-appellant having moved for an enlargement of time in which to perfect the cross appeal and for adjournment of time to file their respondent's brief, and related relief,

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

It is ordered that the motion is granted to the extent of adjourning the appeal and cross 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 November 16, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

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

Alberta Singleton,  
Petitioner,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-5039  
Index No. 400211/09

New York City Housing Authority,  
Respondent.

-----X

An Article 78 proceeding to review a determination of respondent, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about November 10, 2009,

And, respondent having moved to dismiss the proceeding for failure to prosecute,

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

It is ordered that the motion is 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 November 16, 2010.

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

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

-against-

M-4740  
Ind. No. 1422/09

Sing Po Man,  
Defendant-Appellant.

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

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serve one copy of such brief upon the District Attorney of said county and file copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of 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.

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 November 16, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
Richard T. Andrias  
Helen E. Freedman, Justices.

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

-against-

M-4322  
Ind. No. 8677/99

Michael Sookoo,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on April 29, 2008 (Appeal No. 3528), unanimously affirming a judgment of the Supreme Court, New York County (Herbert Altman, J.), rendered on February 20, 2001,

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

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

It is ordered that said application is denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

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

-against-

M-4311  
Ind. No. 8561/89

Andrew Smith,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on June 20, 1996 (M-2921/DC# 140), dismissing defendant's appeal taken from judgments of the Supreme Court, New York County, rendered on March 22, 1990 (Ind. No. 8561/89),

And an order of this Court having been entered June 22, 2010 (M-2298) denying reinstatement of the appeal taken from the judgment rendered on March 22, 1990,

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, or in the alternative for reinstatement of the appeal taken from the judgment rendered March 22, 1990 (Ind. No. 8561/89) and for other relief,

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

It is ordered that said application and reinstatement are 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 November 16, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
James M. McGuire  
Rolando T. Acosta  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
In the Matter of

Bronx Committee for Toxic Free Schools,  
et al.,  
Petitioners-Respondents,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-4902  
Index No. 13800/07

New York City School Construction  
Authority, et al.,  
Respondents-Appellants.

-----X

Respondents-appellants having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about October 27, 2008,

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

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

ENTER:

  
CLÉrk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

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

Respondent,

-against-

M-4803  
Ind. No. 2833/08

Ronald Hudson,

Defendant-Appellant.  
-----X

Defendant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, rendered on or about June 30, 2009,

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

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

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

-against-

SEALED  
M-4760  
Ind. No. 2019/04

Anonymous,  
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of **resentence** of the Supreme Court, New York County, rendered on or about December 2, 2009,

And defendant-appellant having moved for an order unsealing the record on appeal in the above-captioned matter,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from defendant's counsel, Center for Appellate Litigation (Kate Skolnick of counsel), dated October 22, 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 November 16, 2010.

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

-----X  
Keisha Thomas,  
Plaintiff-Respondent,

-against-

Boston Properties, et al.,  
Defendants-Appellants,

M-4628  
Index No. 116922/05  
590045/08

Allied Partners, et al.,  
Defendants.

[And a Third-Party Action]  
-----X

Plaintiff-respondent having moved for reargument of the decision and order of this Court entered on August 17, 2010 (Appeal No. 3157),

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 in the County of New York on November 16, 2010.

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

-----X  
Oxford Health Insurance, Inc.,  
Plaintiff,

-against-

M-3743  
Index No. 602899/04

Jordan S. Josephson, M.D.,  
Defendant.

-----X  
Jordan S. Josephson, M.D. and  
Jordan S. Josephson, M.D., P.C.,  
Plaintiffs-Respondents,

-against-

Index No. 106655/04

George Lastra,  
Defendant-Appellant.

-----X

Defendant-appellant George Lastra having moved for a stay of proceedings in both actions pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about September 21, 2009 (mot. seq. no. 012), for leave to file 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 and *sua sponte* the appeal is dismissed, as academic. The interim relief granted by the order of a Justice of this Court dated August 31, 2010, is 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 November 16, 2010.

PRESENT - Hon. Angela M. Mazzaelli, Justice Presiding,  
David Friedman  
James M. Catterson  
Leland G. Degrasse  
Sallie Manzanet-Daniels, Justices.

-----X

In the Matter of

Best Payphones, Inc.,  
Petitioner-Appellant,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-4839  
M-5337  
Index No. 112128/08

Environmental Control Board of the  
City of New York and The Department  
of Information, Technology and  
Telecommunications of the City of  
New York,  
Respondents-Respondents.

-----X

Petitioner-appellant having moved by separate motions for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about November 24, 2009,

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

It is ordered that the motions are granted to the extent of enlarging the time in which to perfect the appeal to the April 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 November 16, 2010.

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

-----X  
Randy Hernandez, an infant under the age of 14 years by his mother and natural guardian, Yalitza Diaz, and Yalitza Diaz, individually,

Plaintiffs-Appellants,

M-4635  
Index No. 23836/04

-against-

St. Barnabas Hospital, et al.,

Defendants-Respondents.  
-----X

Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from the judgement of the Supreme Court, Bronx County, entered on or about July 8, 2009,

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

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

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 November 16, 2010.

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

-----X  
255 West End Avenue Owners Corp.,  
Plaintiff-Respondent,

-against-

M-4940  
Index No. 113226/07

Peter Fernandez and Libby Crane,  
Defendants-Appellants.

-----X

Defendants-appellants having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about January 4, 2010 (mot. seq. no. 004),

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

It is ordered that the motion is 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 November 16, 2010.

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

-----X  
Kristofer Llauger, an infant under the age of 16 years, by his mother and natural guardian, Lucy Morales, and Lucy Morales, individually,  
Plaintiffs-Respondents,

-against-

M-4876

Index No. 350119/08

Archdiocese of New York and St. Dominic Parish Elementary School,  
Defendants-Appellants.

-----X  
Archdiocese of New York and St. Dominic's Parish Elementary School,  
Third-Party Plaintiffs,

-against-

The Board of Elections of the City of New York,  
Third-Party Defendant.

-----X

An appeal having been taken by defendants/third-party plaintiffs (Archdiocese of New York and St. Dominic's Parish Elementary School) from the order of the Supreme Court, Bronx County, entered on or about June 11, 2010; and an appeal having been taken by said parties from the order of said Court entered on or about July 2, 2010,

And plaintiffs-respondents having moved to dismiss the aforesaid appeals as joined in by the municipal third party defendant with respect to the order entered on June 11, 2010,

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

Ordered that the motion, to the extent it seeks to dismiss the appeal taken from the order of the Supreme Court, Bronx County, entered on or about June 11, 2010, is granted and the appeal is dismissed. So much of the motion which seeks to dismiss the appeal taken from the order of said Court, entered on or about July 2, 2010 is granted unless defendant perfects the appeal on or before January 3, 2011 for the March 2011 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided either respondent serves 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 November 16, 2010.

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

-----X  
In the Matter of the Application of  
Carol Tucker,  
Petitioner,

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

M-4551  
Index No. 401973/08

-against-

New York City Housing Authority,  
Sumner Houses,  
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 22, 2009, to review a determination of respondent,

And, respondent having moved for dismissal of the proceeding,

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

It is ordered that the motion is granted and the proceeding is dismissed and the stay against commencement of a summary eviction proceeding contained in the order of Supreme Court 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 November 16, 2010.

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

-----X  
James L. Melcher,  
Plaintiff-Respondent,

-against-

M-5117  
Index No. 604047/03

Apollo Medical Fund Management L.L.C.,  
and Brandon Fradd,  
Defendants-Appellants.

-----X

An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, New York County entered on or about September 8, 2009, and appeals having been taken to this Court from the order of said Court entered on or about January 8, 2010, and from the judgment of said Court entered on or about February 2, 2010,

And an order of this Court having been entered on October 5, 2010, inter alia, denying plaintiffs motion to direct the Clerk of this Court not to accept defendants' record on appeal (M-3478), granting defendant's cross motion to the extent of striking plaintiff's brief and record on appeal, and otherwise denying the cross motion (M-3580); and sua sponte granting related relief,

And plaintiff-respondent having moved for reargument of the order of this Court entered on October 5, 2010 (M-3478/M-3580), to reinstate his appeal, and/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.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
David Friedman  
Dianne T. Renwick  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
Elvio Taveras, et al.,  
Plaintiffs-Appellants,

-and-

Ramon Hernandez, et al.,  
Plaintiffs,

-against-

M-4520  
Index No. 104260/06

General Trading Co., Inc.,  
Defendant-Respondent.  
-----X

Defendant having moved for an order striking the notice of appeal or for dismissal of the appeal taken from order of the Supreme Court, New York County, entered on or about July 7, 2010,

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

It is ordered that 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 November 16, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
Eugene Nardelli  
James M. Catterson  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
Yan Ping Xu,  
Petitioner-Appellant,

-against-

M-4418  
Index No. 109534/08

The New York City Department of Health,  
Respondent-Respondent.

-----X

Petitioner-appellant having moved for reargument of the decision and order of this Court entered on August 3, 2010 (Appeal No. 2299), 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.

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 November 16, 2010.

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

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

-against-

M-4605  
Ind. No. 4558/04

Amir Douglas,  
Defendant-Appellant.

-----X  
An order of this Court having been entered on August 31, 2010 (M-2868) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about May 24, 2007,

And assigned counsel, Robert S. Dean, Esq., having moved for an order to be relieved as counsel for defendant and to substitute other counsel to prosecute defendant's 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 striking the designation of assigned counsel Robert S. Dean, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, 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 November 16, 2010.

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

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

-against-

Anonymous,  
Defendant-Appellant.

SEALED

M-4630

Ind. Nos. 6942/04  
7349/03

-----X

Defendant-appellant having moved for an order granting movant anonymity in connection with an appeal from the order of the Supreme Court, New York County, entered on or about January 26, 2010 **denying resentence**, designating the case as *People v Anonymous*, and sealing the record on appeal, including the minutes of the proceedings and the appellate briefs and motions/including the minutes of the proceedings/granting anonymity of the records in the above-entitled appeal/and other related relief,

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

It is ordered that the motion is granted to the extent that the record on appeal and brief are sealed. The Clerk is directed to calendar the appeal under *People v Anonymous*.

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 November 16, 2010.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
James M. Catterson  
Diane T. Renwick  
Nelson S. Román, Justices.

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

Pia Becton,  
Petitioner,

For a Judgment Pursuant to Article  
78 of the CPLR,

M-5036  
Index No. 401158/09

-against-

New York City Housing Authority,  
Respondent.

-----X

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

And respondent having moved for an order dismissing the aforesaid proceeding,

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

It is ordered that the motion is granted and the aforesaid 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 November 16, 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-4013  
Ind. No. 1827/07

Michael Johnson,  
Defendant-Appellant.

-----X  
An order of this Court having been entered on June 30, 2009 (M-2471), deeming defendant's moving papers a timely filed notice of appeal and granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about June 12, 2008,

And defendant-appellant pro se having moved for an order to relieve assigned counsel and to substitute other counsel to prosecute 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 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, Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, 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 November 16, 2010.

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

-----x  
In the Matter of Giselle M. Samuely,  
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-2954  
for the First Judicial Department, M-3582  
Petitioner,

Giselle M. Samuely,  
(OCA Atty. Reg. No. 2574911),  
Respondent.

-----x

The Departmental Disciplinary Committee for the First Judicial Department, by Alan W. Friedberg, its Chief Counsel (Ann E. Scherzer, of counsel), having presented a petition and memorandum of law to this Court on July 19, 2010, seeking an order pursuant to Judiciary Law § 90 and 22 NYCRR 603.4(d), confirming the report and recommendation of the Hearing Panel which confirmed so much of the Report of the Referee with respect to the findings of fact and conclusions of law that respondent (who was admitted to practice as an attorney and counselor-at-law in the State of New York at a Term of the Appellate Division of the Supreme Court for the First Judicial Department on November 3, 1993) had committed acts of professional misconduct in violation of the Lawyers' Code of Professional Responsibility involving dishonesty, fraud, deceit or misrepresentation (DR 1-102[A][4]); neglect of client matters (DR 6-101[A][3]); and other conduct adversely reflecting on her fitness as a lawyer (DR 1-102[A][7]), disaffirmed the Referee's recommended sanction of a one year suspension, and recommended that respondent be suspended from the practice of law in the State of New York for a period of five years,

And respondent, by her attorney Howard Benjamin, Esq., having cross moved for an order disaffirming so much of the report and recommendation of the Hearing Panel with respect to sanction, confirming the report of the Referee except as to sanction, and instead imposing upon respondent a sanction of public censure,

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

Ordered that the petition is granted to the extent of confirming so much of the report of the Hearing Panel which confirmed the findings of fact and conclusions of law of the Referee that respondent had engaged in professional misconduct, disaffirming both the recommendation of the Referee and the Hearing Panel with respect to sanction, and respondent is suspended from the practice of law in the State of New York for a period of two years, effective December 16, 2010, and until further order of this Court, and it is further,

Ordered that the cross motion is denied, and it is further,

Ordered that respondent is commanded to desist and refrain from the practice of law in any form, either as principal or agent, clerk or employee of another; that respondent is forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority; that respondent is forbidden to give to another an opinion as to the law or its application or any advice in relation thereto, all effective December 16, 2010. Respondent is directed to fully comply with the provisions of Title 22, Section 603.13, of the Rules of this Court, a copy of which is annexed hereto and made a part hereof.

ENTER:

  
clerk

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

NOV 16 2010

David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Diane T. Renwick  
Sallie Manzanet-Daniels, Justices.

-----x

In the Matter of Giselle M. Samuely,  
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-2954  
for the First Judicial Department, M-3582  
Petitioner,

Giselle M. Samuely,  
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Giselle M. Samuely, 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 3, 1993.

Alan W. Friedberg, Chief Counsel, Departmental  
Disciplinary Committee, New York  
(Ann E. Scherzer, of counsel), for petitioner.

Howard Benjamin, for respondent.

M-2954, M-3582 (July 19, 2010)

In the Matter of Giselle M. Samuely, An Attorney

Per Curiam

Respondent Giselle M. Samuely was admitted to the practice of law in the State of New York by the First Judicial Department on November 3, 1993. At all times relevant to this proceeding, respondent has registered her address with the Office of Court Administration as being within the First Judicial Department.

On April 22, 2009, the Departmental Disciplinary Committee filed formal charges against respondent, and amended those charges on July 15, 2009, relating to four immigration matters, alleging 11 Code violations: DR 1-102(A)(4) (conduct involving dishonesty, fraud, deceit or misrepresentation - 7 counts), DR 6-101(A)(3) (neglect - 3 counts), and DR 1-102(A)(7) (engaging in conduct adversely reflecting on her fitness to practice law). In her July 24, 2009 answer, respondent admitted certain factual allegations as to three complainants, but denied the charges.

A Referee held a hearing at which the four complainants testified. Respondent appeared by counsel, testified on her own behalf, and introduced the testimony of her psychiatric nurse practitioner and a character witness. The Referee sustained all the charges relating to three clients, found that the Committee had failed to prove misconduct regarding the fourth client, and recommended a one-year suspension. The Hearing Panel heard oral

argument and, by an April 7, 2010 report, confirmed the Referee's findings of fact and conclusions of law, but recommended a five-year suspension.

The Committee seeks an order confirming the findings of fact, conclusions of law and recommendations of the Hearing Panel and suspending respondent for five years. Respondent cross-moves to, *inter alia*, disaffirm the Panel's report to the extent that the Panel seeks a suspension, asserting that a public censure is appropriate.

Respondent began practicing immigration law in 1999 and in 2001, she became a solo practitioner working mostly with foreign teachers who need visas. She is active in Venezuelan politics, her parents still reside in Venezuela and she receives referrals from the Venezuelan Embassy and via word of mouth.

Most of the charges sustained by the Referee related to respondent's filing of visa applications for a former Venezuelan General and his family. In August 2004, respondent filed visa applications for the General and his wife. Thereafter, when the General's visa application was denied, respondent told the General that his application needed to be resubmitted, but she did not re-file it. In December 2006, she falsely told the General that his visa application had been approved. She later informed him that the document approving the visa had been lost and gave him an altered receipt from the U.S. Citizenship and

Immigration Services (USCIS) which she had created by substituting information from another client with information relative to the General.

Respondent also wrote a letter to the Virginia Department of Motor Vehicles (DMV) dated March 30, 2007, which falsely stated that the General's visa application had been approved. She attached the receipt to the letter. In July 2007, respondent filed a skeletal application for an O1 visa (an extraordinary ability visa) for the General, which was denied.

Respondent acknowledged that she falsely told the General that his visa application had been approved in December 2006. She also admitted that she had altered another client's USCIS receipt by substituting the General's information with that of another client and changing the date, and that the DMV letter was false. The foregoing conduct violated DR 1-102(A)(4) and DR 6-101(A)(3).

Regarding the visa application for the General's son Hector, respondent falsely told the General that she had filed a visa application for Hector and later, by email, provided Hector with a fabricated case number for his application. On four occasions respondent wrote to Hector, falsely advising that his visa application was pending and providing a fabricated case number. In July, 2007, respondent filed a skeletal application for an O1 visa for Hector, which was denied.

Respondent admitted that her letters indicating that Hector's visa application was pending were false . The foregoing conduct violated DR 1-102(A)(4) and DR 6-101(A)(3).

The Referee also sustained charges with respect to respondent's misconduct in handling applications for client CV, a teacher who hired respondent to apply for permanent residency for her and her husband, JP, based on CV's employment. In March 2008, respondent told CV that her papers were being processed. Respondent sent CV a March 27, 2008 letter, confirming that CV and JP's applications were pending before the Department of Labor and would soon be granted. Thereafter, respondent repeatedly advised that she was expecting confirmation of the residency applications from the Department of Labor. On July 17, 2008, respondent e-mailed CV that her Labor Certification was approved. On November 2, 2008, respondent e-mailed CV a false case number for her application.

Respondent admitted that at the time she wrote the March 27, 2008 letter, no residency application was pending on CV or JP's behalf and that she provided CV with a false case number. The foregoing conduct violated DR 1-102(A)(4) and DR 6-101(A)(3).

While sustaining the charges, the Referee noted in mitigation that respondent had enjoyed a good reputation as a hard-working lawyer who assisted Hispanic aliens in moving applications "through the administrative morass of the U.S.

Immigration Department." The Referee also credited respondent's testimony that the General became threatening and demanding, causing her to fear for the safety of her parents, who live in Venezuela. The General denied discussing respondent's family with her.<sup>1</sup>

In further mitigation, respondent testified that, at the suggestion of her prior counsel, in July 2008 she began seeing a therapist for anxiety, whom she saw weekly for six months and who treated her with medication. Respondent stopped seeing the therapist due to financial issues but began seeing her again in July 2009.

In aggravation, the Committee introduced a November 16, 2006 Letter of Admonition issued to respondent for the neglect of an immigration matter and two IOLA account violations.

The Committee seeks a five-year suspension and respondent seeks a public censure.

Respondent's neglect of three civil matters, lying to conceal her neglect, and her fabrication of a receipt which she then submitted to Virginia's DMV, is aggravated by her disciplinary history and the vulnerability of her immigration clients. "This Court has consistently held that a persistent

---

<sup>1</sup>The Referee found respondent to be a "very credible witness" whose testimony as to her conversations with the General had the "ring of truth". The Referee found that the General's denial of discussing family with respondent did "not have the 'ring of truth'" and was "unbelievable."

pattern of neglect warrants a substantial suspension from the practice of law" (*Matter of Alperin*, 66 AD3d 309 [2009] [two-year suspension for neglect of five matters involving four clients aggravated by deception to conceal the neglect, with no prior discipline]) (citations omitted); (see also e.g., *Matter of O'Shea*, 25 AD3d 203 [2005] [two-year suspension for neglect of four matters, misrepresentations to clients, good reputation, psychological problems, and one prior admonition]; *Matter of Gentile*, 7 AD3d 37 [2004] [two-year suspension for neglect of six matters, failure to return unearned fees, one prior admonition and four letters of caution, with psychological problems, cooperation with the Committee and remorse presented in mitigation]).

In light of the number and seriousness of the sustained charges, the aggravating factors noted above and the absence of compelling mitigation, public censure is not appropriate here. Notably, the pressure placed on respondent by the General did not satisfactorily explain or justify the misconduct and is unrelated to CV's complaints. This is especially so in light of "respondent's failure to take steps following the earlier admonition, to assure that no further lapses would occur" (*Matter of O'Shea*, 25 AD3d at 205).

Accordingly, the Committee's petition is granted to the extent of confirming the Hearing Panel's findings of fact and conclusions of law, and suspending respondent from the practice of law for two years.

All concur.

Order filed.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 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 Brien P. Santarlas  
(admitted as Brien Paul Santarlas),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee  
for the First Judicial Department,  
Petitioner,

M-3721

Brien P. Santarlas  
(OCA Atty. Reg. No. 4175824),  
Respondent.

-----x  
The Departmental Disciplinary Committee for the First Judicial Department, by Alan W. Friedberg, its Chief Counsel (Raymond Vallejo, of counsel), having petitioned this Court on August 23, 2010, for an order pursuant to Judiciary Law § 90(4)(b), striking from the roll of attorneys and counselors-at-law in the State of New York the name of respondent (who, as Brien Paul Santarlas, was admitted to practice as an attorney and counselor-at-law in the State of New York at a Term of the Appellate Division of the Supreme Court for the First Judicial Department on October 30, 2003), based upon respondent's automatic disbarment as a result of his plea of guilty entered on December 10, 2009 in the United States District Court for the Southern District of New York, to the crimes of conspiracy to commit securities fraud in violation of 15 USC § 371, and securities fraud in violation of 15 USC §§ 78j(b) and 78ff, both federal felonies, the elements of which are essentially similar to the New York felony of insider trading under General Business Law § 352-c(5) and (6),

And respondent having failed to interpose an answer to the petition,

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

Ordered that the petition is granted, respondent is disbarred and his name is stricken from the roll of attorneys and counselors-at-law in the State of New York, nunc pro tunc to December 10, 2009, and it is further,

Ordered that respondent is commanded to desist and refrain from the practice of law in any form, either as principal or agent, clerk or employee of another; that respondent is forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority; that respondent is forbidden to give to another an opinion as to the law or its application or any advice in relation thereto. Respondent is directed to fully comply with the provisions of Title 22, Section 603.13, of the Rules of this Court, a copy of which is annexed hereto and made a part hereof.

ENTER:

A handwritten signature in black ink, reading "David Apolony". The signature is written in a cursive, flowing style with a large, sweeping initial "D".

Clerk

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

NOV 16 2010

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

-----x

In the Matter of Brien P. Santarlas  
(admitted as Brien Paul Santarlas),  
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-3721  
for the First Judicial Department,  
Petitioner,

Brien P. Santarlas,  
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Brien P. Santarlas, 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  
October 30, 2003.

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

Stahl Farella, LLC. (Robert G. Stahl, of counsel),  
for respondent.

M-3721 (August 23, 2010)

IN THE MATTER OF BRIEN P. SANTARLAS, AN ATTORNEY

PER CURIAM

Respondent Brien P. Santarlas was admitted to the practice of law in the State of New York by the First Judicial Department on October 30, 2003, as Brien Paul Santarlas. At all times relevant to this proceeding, respondent maintained his principal place of business within the First Judicial Department.

On December 10, 2009, in the United States District Court for the Southern District of New York, respondent pleaded guilty to conspiracy to commit securities fraud in violation of 18 USC § 371, and securities fraud in violation of 15 USC §§ 78j(b) and 78ff, both federal felonies. Respondent has not yet been sentenced.

During his plea allocution respondent admitted that between approximately June 2007 and May 2008, while he was employed at a Manhattan law firm, he and another firm attorney accessed confidential information about mergers and acquisitions, unbeknownst to other attorneys, and then knowingly and voluntarily passed the confidential information to another attorney, not employed by the same firm, who subsequently provided the confidential information to a trader. The confidential information was then used by the trader to make stock purchases in publicly traded companies. Respondent was

paid in cash for the information.

The Departmental Disciplinary Committee now seeks an order striking respondent's name from the roll of attorneys pursuant to Judiciary Law § 90(4)(b). Automatic disbarment under § 90(4)(b) is appropriate because respondent's Federal convictions for securities fraud are "essentially similar" to the New York felony under the New York State insider trading statute, General Business Law § 352-c(5) and (6) (see *Matter of Gansman*, 73 AD3d 1 [2010]; *Matter of Grossman*, 135 AD2d 1 [1988] [automatic disbarment for insider trading]; *Matter of Reich*, 128 AD2d 329 [1987]). Even though respondent has not yet been sentenced, the timing of this application is appropriate because the motion to strike is properly based upon a guilty plea or verdict (*Matter of Silberman*, 31 AD3d 21 [2006]).

Accordingly, the petition is granted, as respondent ceased to be an attorney authorized to practice law in New York State upon his Federal felony convictions, and respondent's name is stricken from the roll of attorneys and counselors-at-law in the State of New York, effective nunc pro tunc to December 10, 2009. All concur.  
Order filed.

PM ORDERS

ENTERED

NOVEMBER 16, 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 November 16, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta  
Sheila Abdus-Salaam, Justices.

-----X  
Seth A. Mensah, M-2507  
Plaintiff-Appellant, M-2659  
-against- M-3086  
Polytechnic University, et al., M-4069  
Defendants-Respondents, M-5112  
M-4642  
Index No. 107302/08  
Kennedy Space Center,  
Defendants.  
-----X

A decision and order of this Court having been entered on December 1, 2009 (Appeal No. 1596), inter alia, affirming the order of the Supreme Court, New York County, entered December 4, 2008, dismissing the complaint as against defendants-respondents,

And an order of this Court having been entered on February 16, 2010 [M-5497], denying plaintiff's motion for reargument of the aforesaid decision and order of this Court entered on December 1, 2009,

And plaintiff-appellant having renewed his motion for reargument of the decision and order of this Court entered on December 1, 2009 (Appeal No. 1596) [M-2507, M-3086]; and for related relief [M-2507],

And defendant-respondent Polytechnic University having cross-moved for the imposition of sanctions for frivolous conduct pursuant to Rule 130 of the Uniform Rules of the Chief Administrator [M-2659],

And plaintiff having moved this Court, by separate motions, for the issuance of subpoenas with respect to certain individuals, said motions returnable on July 12, 2010 (M-3086); August 30, 2010 [M-4069], and October 26, 2010 (M-5112),

And plaintiff having moved this Court for an order of protection with respect to two previously elected federal government officials and unidentified family members of said persons, returnable September 27, 2010 [M-4642],

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 the motions by the plaintiff Seth A. Mensah [M-2507/M-3086/M-4069/M-5112/M-4642] are in all respects denied, with one bill of \$100 costs payable by plaintiff to defendant-respondent Polytechnic University, and it is further,

Ordered that the cross motion [M-2659] is granted only to the extent of deeming plaintiff's conduct as frivolous in violation of Rule 130 of the Uniform Rules of the Chief Administrator, and otherwise denied, and it is further,

Ordered that plaintiff is advised that this matter has in all respects been concluded. Plaintiff is directed to serve no further papers with respect to this action upon any of the defendants without a prior order of this Court, and the Clerk is directed to accept no further submissions from plaintiff without such an order.

ENTER:

A handwritten signature in black ink, appearing to read "David Apobony". The signature is written in a cursive, flowing style with a large initial "D".

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X

Eric Elmore, Jr., an infant by his parents and natural guardians, Eric Elmore, Sr. and Maria Elmore, and Eric Elmore, Sr., individually and Maria Elmore, individually,  
Plaintiffs-Appellants,

**SEALED**  
M-5165  
Index No. 8580/04

-against-

2720 Concourse Associates, L.P.,  
and Pietro Ruggiero,  
Defendants-Respondents.

-----X

Appeals having been taken from the orders of the Supreme Court, Bronx County, both entered on or about May 28, 2010, and said appeals having been perfected,

And an order of this Court entered September 30, 2010 (M-4005/M-4366) having restrained plaintiff Maria Elmore from retaining counsel for plaintiffs other than current counsel of record, Wingate, Russotti & Shapiro, LLP,

And current counsel for plaintiffs, Wingate, Russotti & Shapiro, LLP, having moved for an order holding purported new counsel for plaintiffs, Burns & Harris, Esqs. (Christopher J. Donadio of counsel), in contempt with related relief for violation of the order of this Court,

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

Ordered that the motion is denied without prejudice to further proceedings in Supreme Court, Bronx County.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Leland G. Degrasse  
Sheila Abdus-Salaam, Justices.

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

-against-

M-5024  
Ind. No. 1664/09

Nicole Carter,  
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 1, 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 copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall **expeditiously** 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 to on or before March 21, 2011 for the June 2011 Term. Counsel is directed to immediately serve a copy of this order upon the Clerk of Supreme Court, New York County, and the individual Court Reporters. (See M-5527 entered simultaneously herewith)

ENTER:

A handwritten signature in black ink, reading "David Apolony". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end.

Clerk.

CORRECTED ORDER – November 29, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
David Friedman  
Leland G. DeGrasse  
Helen E. Freedman  
Sallie Manzanet-Daniels, Justices.

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

-against-

**M-5527**  
Ind. No. 1664/09

Nicole Carter,  
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about July 1, 2010,

And an order of a Justice of the Supreme Court, New York County (Roger S. Hayes, J.) having been entered on or about November 8, 2010 pursuant to CPL 460.50 Subd. 1; releasing defendant upon her own recognizance pending hearing and determination of the aforesaid appeal,

And defendant having moved for an order, pursuant to CPL §§460.50[4], extending the stay of execution of sentence and continuing her release on her own recognizance until 120 days from the date appellate counsel is assigned and such counsel has received the complete record on 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 extending the stay of execution of sentence and continuing defendant's release on her own recognizance on condition that counsel perfect the appeal on or before March 21, 2011 for the June 2011 Term, and it is further

CORRECTED ORDER – November 29, 2010

(M-5527)

-2-

November 16, 2010

Ordered that counsel is directed to immediately serve a copy of this order upon the Clerk of Supreme Court, New York County and the individual Court Reporters along with a copy of the order of this Court (M-5024) entered simultaneously herewith.

ENTER:

---

A handwritten signature in cursive script, reading "Susan Rojas". The signature is written in black ink and is positioned to the right of the word "ENTER:". A horizontal line is drawn above the signature.

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on November 16, 2010.

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

-----X  
Lottie Nugent,

Plaintiff-Respondent,

-against-

1235 Concourse Tenants Corp., et al.,

Defendants-Appellants.  
-----X

**M-5248**  
Ind. No. 310015/08

Defendants-appellants having moved for an order staying 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 May 19, 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 November 16, 2010.

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

-----X  
Bruce Grilikhes,  
Plaintiff-Appellant,

-against-

**M-5235**  
Index No. 104734/06

International Tile & Stone Show Expos,  
also known as International Tile and  
Stone Show, Ltd., also known as ITSS  
Expos, et al.,  
Defendants-Respondents,

-and-

New York Convention Center Development  
Corporation,  
Defendant.

-----X

An appeal having been taken to this Court by the above-named plaintiff-appellant from the order of the Supreme Court, New York County, entered on or about September 14, 2009,

And Furman Kornfeld & Brennan LLP (A. Michael Furman, of counsel) having moved on behalf of Andrew Rosenbaum, Esq., for leave to file a brief 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 motion is denied.

ENTER:



Clerk.

PM ORDERS

ENTERED

NOVEMBER 09, 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 November 9, 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-5301  
DC #25  
Tony Green, also known as Ind. No. 6300/06  
Terrence Allen,  
Defendant-Appellant.  
-----X

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about October 25, 2007,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Kareem Willis,

Defendant-Appellant.

-----X

M-5346  
DC #70  
Ind. Nos. 2365/01  
2490/01  
2491/01  
40/02

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, Bronx County, rendered on or about February 18, 2003,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Fernando Torres,

Defendant-Appellant.

-----X

M-5340  
DC #63  
Ind. No. 1276/03

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about January 29, 2009,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

David Soto,

M-5335  
DC #58  
Ind. No. 4039/06

Defendant-Appellant.  
-----X

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, Bronx County, rendered on or about November 5, 2008,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Ronald Smalls,

M-5333  
DC #56  
Ind. No. 3960/03

Defendant-Appellant.  
-----X

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about April 20, 2006,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Arthur Richardson,

Defendant-Appellant.

-----X

M-5326  
DC #49  
Ind. No. 1509/06

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, Bronx County, rendered on or about September 7, 2007,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Arthur Richardson,

Defendant-Appellant.

-----X

M-5325  
DC #48  
Case No. 49311C/05

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, Bronx County, rendered on or about September 7, 2007,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Sergei Kuramtsov, also known as  
Sergei Khramtsov,  
Defendant-Appellant.

M-5312  
DC #34  
Ind. No. 6073/08

-----X

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about January 21, 2009,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Felix Hernandez,

Defendant-Appellant.

-----X

M-5304  
DC #27  
Ind. No. 1165/07

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about November 29, 2007,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Vincent Gillietti,

M-5297  
DC #22  
Ind. No. 2438/06

Defendant-Appellant.

-----X

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about December 6, 2006,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Gerald Davis,

M-5291  
DC #16  
Ind. No. 2880/06

Defendant-Appellant.  
-----X

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about May 17, 2007,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Denzel Crawford,

Defendant-Appellant.

-----X

M-5290  
DC #15  
Ind. No. 3942/07

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, New York County, rendered on or about October 19, 2008,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 November 9, 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-

Felipe Arroyo,

Defendant-Appellant.

M-5273  
DC #6  
Ind. No. 4502/06

-----X

An appeal having been taken to this Court by defendant from the judgment of the Supreme Court, Bronx County, rendered on or about April 1, 2008,

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

And a calendar call having been held by the Clerk of the Court on October 28, 2010, pursuant to Rule 600.12(c) of said Rules of Practice, and counsel for appellant having submitted an affirmation seeking an enlargement of time in which to perfect the appeal,

Now, upon the Court's own motion,

It is ordered that the appellant's time to perfect the appeal is enlarged to the February 2011 Term and counsel 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 January 26, 2010.

Present - Hon. John W. Sweeny, Jr., Justice Presiding,  
James M. Catterson  
Dianne T. Renwick  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
1251 Americas Associates II, L.P.,

Petitioner-Landlord-Respondent,

-against-

M-5405  
Index No. 570878/07

Rock 49<sup>th</sup> Rest. Corp., d/b/a City  
Crab & Lobster Co.,

Respondent-Tenant-Appellant.  
-----X

Respondent-tenant 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 April 10, 2009,

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

It is ordered that the motion is 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 November 9, 2010.

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

-----x  
Choice Hotels International, Inc.,

Plaintiff,

-against-

Sam Klein, et al.,

Defendants.  
-----x

M-5123  
Index No. 112679/10

Defendants having moved for leave to appeal to this Court from an ex parte order of the Supreme Court, New York County entered on or about September 29, 2010, 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 deemed one pursuant to CPLR 5704(a) seeking to vacate a temporary restraining order and, as such, 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 November 16, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
Eugene Nardelli  
Dianne T. Renwick  
Leland G. DeGrasse, Justices.

-----X  
Emiliano Zapata,  
Plaintiff-Appellant,

Action No. 1

-against-

M-5254

M-5433

Ayanna Sutton, Shirley J. Jackson,  
Michael Giachinta and Putnam Tire  
Co., Inc.

Index No. 21439/06

Defendants-Respondents.

-----X  
Michael Giachinta and Noelle Giachinta,  
Plaintiffs-Appellants,

Action No. 2

Index No. 23466/06

-against-

Ayanna Sutton, Shirley J. Jackson  
and Emiliano Zapata,  
Defendants-Respondents.

-----X  
Jorge Adrian Bernal Cuapio and Louis  
Gertsman, As Administrator of the Goods,  
Chattels and Credits of Adair Herrera  
Pena, Deceased,  
Plaintiffs-Appellants,

Action No. 3

Index No. 300051/08

-against-

Shirley J. Jackson, Ayanna Sutton,  
Michael Giachinta, Putnam Tire, Co.,  
Inc., Jhonathan Ceron and Emiliano  
Zapata,

Defendants-Respondents.

-----X

Plaintiffs-appellants in Action No. 3 Jorge Adrian Bernal Cuapio and Louis Gertsman, having moved (M-5254) for an order enlarging the time in which to perfect their appeal from the order of the Supreme Court, Bronx County, entered on or about January 8, 2010,

And defendants-respondents in Action No. 3 Michael Giachinta and Putnam Tire, Co., Inc., having cross-moved (M-5433) to dismiss the aforesaid appeal for failure to timely prosecute,

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

It is ordered that the motion (M-5254) is granted to the extent of enlarging the time in which to perfect the appeal to on or before December 6, 2010 for the February 2011 Term upon a joint record filed by appellant in Action No. 1, Emiliano Zapata. The cross-motion (M-5433) is granted unless the appeal is so perfected. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent(s) serve a copy of this order upon the appellant(s) within ten days after the date of entry hereof.

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive, flowing style.

Clerk