

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. David Friedman,  
Richard T. Andrias  
Karla Moskowitz  
Judith J. Gische  
Ellen Gesmer,

Justice Presiding,  
  
  
  
Justices.

-----x  
In the Matter of

Angel P.,  
and Diamond C.,

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

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

M-4669  
Docket Nos. N-13548/15

Jose C.,  
Respondent-Appellant.

- - - - -  
Katherine Tracy, Esq.,  
Attorney for the Child Angel P.,

Aleza Ross, Esq.,  
Attorney for the Child Diamond C.

-----x

An appeal having been taken to this Court from the order of the Family Court, Bronx County, entered on or about October 29, 2015, and said appeal having been perfected,

And respondent-appellant, pro se, having moved for leave to file a pro se supplemental brief 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 granted, and movant is directed to serve and file one original and 8 copies of his pro se supplemental brief on or before January 3, 2017 for the March 2017 Term, to which Term the appeal is adjourned.

ENTER:

  
CLERK

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

BEFORE: Hon. Sallie Manzanet-Daniels  
Justice of the Appellate Division  
-----X

The People of the State of New York,

M-2985  
Ind. No. 2975/14

-against-

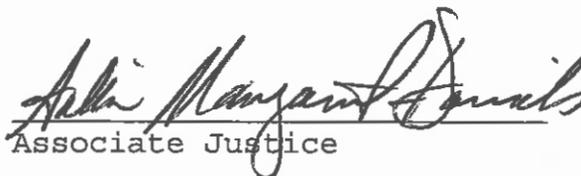
CERTIFICATE  
DENYING LEAVE

Rickey Alston,

Defendant.

-----X

I, Sallie Manzanet-Daniels, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about May 18, 2016, is hereby denied. In light of the above, defendant's request for poor person relief is denied as moot.

  
Associate Justice

Dated: September 16, 2016  
New York, New York

ENTERED: OCT 25 2016

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,  
Rolando T. Acosta  
Richard T. Andrias  
Sallie Manzanet-Daniels  
Troy K. Webber, Justices.

-----X  
37 East 50<sup>th</sup> Street Corporation,  
Plaintiff-Respondent-Appellant,

-against-

M-4741  
Index No. 653067/13

Restaurant Group Management Services,  
LLC,  
Defendant-Appellant-Respondent.

-----X

An appeal and cross appeal having been taken from an order of the Supreme Court, New York County, entered on or about May 28, 2015, and the appeal having been perfected,

And plaintiff-respondent-appellant having moved for a further adjournment of the aforesaid appeal and for an enlargement of time to perfect the cross 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 adjourning the perfected appeal to the February 2017 Term and enlarging plaintiff's time to perfect the cross appeal to said February 2017 Term.

ENTER:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,  
Rolando T. Acosta  
Paul G. Feinman  
Barbara R. Kapnick  
Troy K. Webber, Justices.

-----x

The Nonhuman Rights Project, Inc.,  
on behalf of Kiko,  
Petitioner-Appellant,

-against-

M-4175  
Index No. 150149/16

Carmen Presti, et al.,  
Respondents-Respondents.

-----x

A motion having been made by petitioner-appellant to this Court from a decision of the Supreme Court, New York County, entered on or about January 29, 2016, in which the Court declined to sign an order to show cause,

And an order by a Justice of this Court, entered on July 28, 2016, denying petitioner's motion for leave to appeal from the aforesaid January 29, 2016 decision,

And petitioner-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the aforesaid order of a Justice of this Court, entered on July 28, 2016,

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

It is ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,  
Dianne T. Renwick  
Sallie Manzanet-Daniels  
Judith J. Gische  
Troy K. Webber, Justices.

-----X  
In the Matter of the Application of  
Prestige Muffler, Inc., Henry A. Ramos,  
and Alejandro Espejo,  
Petitioners,

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

M-4494  
Index No. 260412/16

-against-

Deborah V. Dugan, in her official  
capacity as Chairman of the State  
of New York Department of Motor  
Vehicles Appeals Board, etc., et al.,  
Respondents.

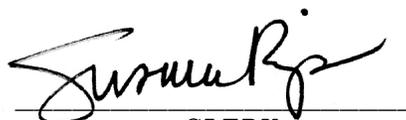
-----X  
An Article 78 proceeding having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, Bronx County, entered on or about August 8, 2016, to review a determination of respondents,

And petitioners-appellants having moved to stay enforcement of respondents April 1, 2016 and July 7, 2015 determinations, pending hearing and determination of the aforesaid proceeding,

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

It is ordered that the motion is denied, and the interim relief granted by an order of a Justice of this Court, dated September 6, 2016, 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 October 25, 2016.

Present: Hon. John W. Sweeny, Jr., Justice Presiding,  
Rolando T. Acosta  
Paul G. Feinman  
Barbara R. Kapnick  
Marcy L. Kahn, Justices.

-----X

In re OTR Media Group, et al.,

Petitioners-Appellants,

-against-

**M-3425**

Index No. 260130/14

Board of Standards and Appeals of the  
City of New York, et al.,

Respondents-Respondents.

-----X

Petitioners-appellants having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on July 5, 2016 (Appeal No. 1657),

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.

ENTERED:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,  
Dianne T. Renwick  
Sallie Manzanet-Daniels  
Judith J. Gische, Justices.

-----X

TYT East Corp., et al.,  
Plaintiffs,

Hui Sheng Lin, etc.,  
Plaintiff-Appellant,

-against-

Michael Lam, et al.,  
Defendants,

M-3034  
M-3064  
Index Nos. 601029/10  
590415/12

David Gao, et al.,  
Defendants-Respondents.

- - - - -

David Gao, et al.,  
Third-Party Plaintiffs-Respondents,

Jin Hua Restaurant, Inc.,  
Third-Party Plaintiff,

-against-

Ji Xiong Ni, etc., et al.,  
Third-Party Defendants,

Yan Zhuang, etc., et al.,  
Third-Party Defendants-Appellants.

-----X

Defendants/third-party plaintiffs-respondents David Gao and Chen Hua having moved, by separate motions, for reargument of, or in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on May 12, 2016 (Appeal No. 16737),

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 denied (M-3034/M-3064).

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Rolando T. Acosta, Justice Presiding,  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Troy K. Webber  
Marcy L. Kahn, Justices.

-----x  
In the Matter of a Family Offense  
Proceeding Under Article 8 of the  
Family Court Act.

- - - - -  
Grazyna S.-G.,  
Petitioner-Appellant,

M-3397  
Docket No. O-44072/13

-against-

Evelina G.,  
Respondent-Respondent.

-----x

An order of this Court having been entered on January 12, 2016 (M-5627), inter alia, granting petitioner-appellant leave to prosecute, as a poor person, the appeal from the order of the Family Court, New York County, entered on or about May 20, 2015, and assigning Anne Reiniger, Esq., as counsel to prosecute the appeal,

And petitioner-appellant pro se having moved to relieve assigned counsel and to assign new counsel to prosecute the appeal, and for an enlargement of time to perfect same,

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

It is ordered that the motion is granted to the extent of relieving Anne Reiniger, Esq., as counsel prosecuting the appeal and assigning, pursuant to Article 18b of the County Law and § 1120 of the Family Court Act, Tennille M. Tatum-Evans, Esq., 260 Convent Avenue, Suite #34, New York, NY 10031, Telephone No. 347-645-6660, as counsel for purposes of prosecuting the appeal. The poor person relief previously granted is continued, and the time to perfect the appeal is enlarged to the March 2017 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Rolando T. Acosta, Justice Presiding,  
Dianne T. Renwick  
David B. Saxe  
Paul G. Feinman  
Marcy L. Kahn, Justices.

-----x  
Sonia Bonilla,  
Plaintiff-Respondent,

-against-

P.A. Vargas-Nunez,  
Defendant-Respondent,

M-4441  
Index No. 22405/12E

-and-

Jesus Bravo and Indalecio Bravo Maldonado,  
Defendants-Appellants.  
-----x

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about August 18, 2015, and said appeal having been perfected,

And plaintiff-respondent having moved to enlarge the record on appeal to include a page from a certain affidavit opposing the motion for summary judgment and the report of Dr. Alvin Bregman dated December 11, 2014, or for alternative relief,

Now, upon reading and filing the papers with respect to the motion, including the stipulation filed with this Court on August 30, 2016, and due deliberation having been had thereon,

It is ordered that the motion is granted solely to the extent of directing movant to file, immediately, a supplemental appendix, containing a copy of this order and a complete copy of the affidavit of plaintiff, dated April 13, 2015, and otherwise denied.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Rolando T. Acosta, Justice Presiding,  
Dianne T. Renwick  
David B. Saxe  
Paul G. Feinman  
Marcy L. Kahn, Justices.

-----x  
In the Matter of a Proceeding for  
Support Under Article 4 of the  
Family Court Act.  
-----

Angela B.,  
Petitioner-Respondent,

M-4864  
Docket No. F-13110-11/15D

-against-

Gustavo D.,  
Respondent-Appellant.  
-----x

An appeal having been taken to this Court from the order of the Family Court, Bronx County, entered on or about September 1, 2015, and said appeal having been perfected,

And respondent-appellant having moved for appellate preference restoring the matter to the October 2016 Term or, in the alternative, maintaining the appeal on this Court's calendar for the November 2016 Term,

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

It is ordered that the motion is denied.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Karla Moskowitz, Justice Presiding,  
Paul G. Feinman  
Judith J. Gische  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

-----x

Edwin R. Vasquez,  
Plaintiff-Respondent,

-against-

M-4170  
Index No. 5286/10

Marileysi Vasquez,  
Defendant-Appellant.

-----x

Plaintiff-respondent having moved to dismiss the appeal taken from the order of the Supreme Court, Bronx County, entered on or about March 18, 2014, for failure to timely perfect,

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

It is ordered that the motion is granted and the appeal is dismissed.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present: Hon. Karla Moskowitz, Justice Presiding,  
Paul G. Feinman  
Judith J. Gische  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

-----X  
In the Matter of a Family Offense  
Proceeding Under Article 8 of the  
Family Court Act.

Derick B.,  
Petitioner-Respondent, Docket No. O-3373/13  
  
-against-

Catherine L.,  
Respondent-Appellant.

Mina McFarlane, Esq.,  
Attorney for the Child. **M-4336**

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

Catherine L.,  
Petitioner-Appellant, Docket No. V-4045/13  
  
-against-

Administration for Children's  
Services,  
Respondent,

Derick B.,  
Respondent-Respondent.

Mina McFarlane, Esq.,  
Attorney for the Child.  
-----X

Appellant, Catherine L., having moved for leave to prosecute, as a poor person, appeals taken from two orders of the Family Court, Bronx County, entered on or about September 10, 2014 (Docket No. O-3373/13) and on or about June 29, 2016 (Docket No. V-4045/13), and for assignment of counsel on both matters, a free copy of the transcript(s), and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Tennille M. Tatum-Evans, Esq., 260 Convent Avenue, Suite #34, New York, NY 10031, Telephone No. (347) 645-6660, as counsel for purposes of prosecuting both appeals; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record(s) on appeal, the cost thereof to be charged against the City of New York from funds available therefor;<sup>1</sup> **within 30 days (FCS 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record(s) from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record(s) upon receipt of this order;** and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, **within 60 days** of the receipt of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.**

ENTER:

  
CLERK

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Karla Moskowitz, Justice Presiding,  
Paul G. Feinman  
Judith J. Gische  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

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

-against-

M-3738  
Index No. 406648/07

Western Express International, Inc.,  
doing business as Paycard 2000, etc.,  
et al.,  
Defendants-Appellants.

-----X

Defendants-appellants having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about June 7, 2016, and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, for the assignment of appellate counsel, and for other relief,

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

It is ordered that said motion is granted to the extent of permitting the appeal to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serve one copy of such brief upon the attorney for respondent and file 8 copies of such brief, together with the original record, pursuant to Rule 600.11 of the rules of this Court. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record. The motion, to the extent it seeks assignment of appellate counsel, is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Karla Moskowitz, Justice Presiding,  
Paul G. Feinman  
Judith J. Gische  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

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

-against-

M-3959  
Ind. No. 1580/03

Luis J. Rodriguez, also known as  
Luis Rodriguez-Castillo,  
Defendant-Appellant.

-----X

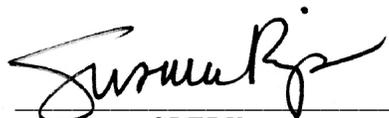
Defendant having renewed the motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about February 26, 2009, and the judgment of resentence of said Court, rendered on or about April 29, 2009, respectively, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with retained appellate counsel, Ramon Pagan, Esq., the amount and sources of funds for trial counsel's fee and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

Sua sponte, the time to perfect the appeal is hereby enlarged to the March 2017 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Karla Moskowitz, Justice Presiding,  
Paul G. Feinman  
Judith J. Gische  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

-----x  
Joy Ifill-Colon, et al.,

Plaintiffs-Respondents-Appellants,

-against-

M-3561

M-4027

Index No. 300356/13

Baychester Payment Center, LLC and  
Wink Check Cashing Corp.,  
Defendants-Appellants-Respondents,

153 E. 149<sup>th</sup> Realty Corp., et al.,  
Defendants-Appellants-Respondents.  
-----x

An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about September 17, 2015,

And plaintiffs-respondents-appellants having moved for an enlargement of time to perfect the direct appeal (M-3561),

And defendants-appellants-respondents having cross-moved for an enlargement of time to perfect their cross appeal (M-4027),

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

It is ordered that the motion and cross motion are granted to the extent of enlarging the time to perfect the appeal and cross appeal to the March 2017 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Karla Moskowitz, Justice Presiding,  
Paul G. Feinman  
Judith J. Gische  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

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

-against-

M-3896  
Index Nos. 89/75  
1886/77

Hopeton Gooden,  
Defendant-Appellant.  
-----x

An order of this Court having been entered on June 6, 2013 (M-1649), granting defendant leave to prosecute the appeal from the order of the Supreme Court, Bronx County, entered on or about January 11, 2012, and assigning counsel therefor,

And defendant-appellant having moved, through assigned counsel, to enlarge the record on appeal to include, and directing the Clerk of the Supreme Court, Criminal Term, Bronx County, to unseal and provide appellant's counsel, copies of the microform records under Bronx County Indictment Nos. 89/75 and 1886/77,

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

It is ordered that the motion is granted to the extent of directing the Clerk of the Supreme Court, Bronx County, to have transcribed copies of the microform records as set forth above, within 30 days from the date of service of a copy of this order, which counsel is directed to serve upon the Clerk and the individual court reporter(s), within 20 days of the date of entry hereof. Sua sponte, the time to perfect the appeal is enlarged to the March 2017 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Karla Moskowitz  
Rosalyn H. Richter, Justices.

-----x  
Domingo Mouta, et al.,  
Plaintiffs,

-against-

M-3925  
Index No. 307749/08

Essex Market Development, LLC, JF  
Contracting, and MSS Construction Corp.,  
Defendants-Appellants.

- - - - -

Essex Market Development, LLC,  
Third-Party Plaintiff-Appellant,

-against-

Index No. 83824/09

Marangos Construction Corp.,  
Third-Party Defendant-Respondent.

- - - - -

J.F. Contracting Corp.,  
Third-Party Plaintiff-Appellant,

-against-

Index No. 83768/09

Marangos Construction Corp.,  
Third-Party Defendant-Respondent.

-----x

Appeals having been taken to this Court from amended judgments of the Supreme Court, New York County, entered on or about June 30, 2015 and July 8, 2015, respectively,

And third-party plaintiff-appellant J.F. Contracting Corp. having moved for a partial stay of enforcement of the judgments for all sums exceeding the available limits of its insurance coverage, pending hearing and determination of the aforesaid appeals,

Now, after pre-argument conference and upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated September 2, 2016, and due deliberation having been had thereon,

It is ordered that the motion is denied, as moot, the notice of appeals having already been withdrawn by the order of this Court entered on October 20, 2016 (M-4550X).

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Peter Tom, Justice Presiding,  
John W. Sweeny, Jr.  
Richard T. Andrias  
Troy K. Webber  
Ellen Gesmer, Justices.

-----x  
Rachel D. Jenkins,

Claimant-Appellant,

-against-

NYS Department of Financial Services,

Defendant-Respondent.  
-----x

M-4505  
Claim No. 125337

An appeal having been taken to this Court from the order of the Court of Claims, entered on or about August 4, 2015,

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

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

It is ordered that the motion is denied and, sua sponte, the appeal is dismissed.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

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

-against-

M-4504  
Ind. No. 30151/12

Antonio Lopez,  
Defendant-Appellant.

-----X

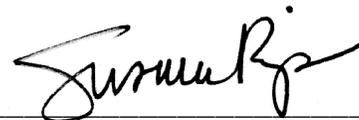
Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County (Fitzgerald, J.) entered on or about July 22, 2016, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, for an enlargement of time in which to perfect the appeal, and for related relief,

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

Ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 8 copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The Clerk of the Supreme Court shall expeditiously have made and file with the criminal court (CPL 460.70) one transcript of the stenographic minutes of the SORA hearing and any other proceedings before Justice Fitzgerald as yet not transcribed. The Clerk shall furnish a copy of such transcripts to appellant's counsel, Robert S. Dean, Esq., without charge, the transcripts to be returned to this Court when appellant's brief is filed. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

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

-against-

M-4508  
Ind. No. 1533/14

Michael Freeman,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County (Fabrizio, J.) entered on or about August 3, 2016, 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 the appeal, and for related relief,

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

Ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 8 copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The Clerk of the Supreme Court shall expeditiously have made and file with the criminal court (CPL 460.70) one transcript of the stenographic minutes of the SORA hearing and any other proceedings before Justice Fabrizio as yet not transcribed. The Clerk shall furnish a copy of such transcripts to appellant's counsel, Robert S. Dean, Esq., without charge, the transcripts to be returned to this Court when appellant's brief is filed. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

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

-against-

M-4477  
Ind. No. 1725/02

Nicholas Panton,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County (Barrett, J.) entered on or about August 11, 2016, 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 the appeal, and for related relief,

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

Ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 8 copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The Clerk of the Supreme Court shall expeditiously have made and file with the criminal court (CPL 460.70) one transcript of the stenographic minutes of the SORA hearing and any other proceedings before Justice Barrett as yet not transcribed. The Clerk shall furnish a copy of such transcripts to appellant's counsel, Robert S. Dean, Esq., without charge, the transcripts to be returned to this Court when appellant's brief is filed. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

-----X

In the Matter of a Proceeding for  
Visitation Under Article 6 of the  
Family Court Act.

Oliver A.,  
Petitioner-Respondent,

M-4361  
Docket Nos. V-15193/15  
V-15194/15

-against-

Diana Pina B.,  
Respondent-Appellant.

-----X

Petitioner-respondent having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, Bronx County, entered on or about June 15, 2016, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

It is ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, Telephone No. 516-921-6800, as counsel for purposes of responding to the appeal; (2) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for respondent-appellant and 8 copies thereof are filed with this Court.

ENTER:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

-----X

In the Matter of

Jeremiah D.,

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

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

M-4243  
Docket No. NA-36473/15

Deon D.,  
Respondent-Appellant.

- - - - -  
Alaina Varvaloucas, Esq.,  
Lawyers for Children,  
Attorney for the Child.

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, New York County, entered on or about July 8, 2016, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Steven N. Feinman, Esq., One North Broadway, Suite #412, White Plains, NY 10601, Telephone No. (914) 949-8214, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City

of New York from funds available therefor<sup>1</sup> **within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order;** and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, **within 60 days** of receipt of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.**

ENTER:

  
CLERK

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

-----X  
In the Matter of Application for the  
Guardianship and Custody of

Matthew Anthony D.,  
Christian Roberto D., and  
Angel Luis D.,

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

-----  
Comprehensive Family Representation,  
Petitioner-Respondent,

M-4239  
Docket Nos. B-33763-4/10  
B-07751/12

Marian R.,  
Respondent-Appellant.  
-----

Seymour W. James, Jr., Esq., The Legal  
Aid Society, Juvenile Rights Division,  
Attorney for the Children.

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, New York County, entered on or about July 22, 2016, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Richard L. Herzfeld, Esq., 112 Madison Avenue, 8<sup>th</sup> Floor, New York, NY 10016, Telephone No. (212) 818-9019, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for

inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> **within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order;** and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, **within 60 days** of receipt of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.**

ENTER:



---

CLERK

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

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

-against-

M-3598  
Ind. No. 1381/09

Oman Gutierrez,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on July 14, 2015 (Appeal No. 14291), unanimously affirming a judgment of the Supreme Court, New York County (Gregory Carro, J.), rendered on December 14, 2010,

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

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

It is ordered that said application is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
John W. Sweeny, Jr.  
Sallie Manzanet-Daniels, Justices.

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

-against-

M-3457  
Ind. No. 685/13

Jose Encarnacion-Cross, also known as  
Jose Encarnacion,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on October 6, 2015 (Appeal No. 15774), unanimously affirming a judgment of conviction of the Supreme Court, New York County (Renee White, J.), rendered on November 21, 2013,

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

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

It is ordered that said application is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Rolando T. Acosta  
Rosalyn H. Richter  
Sallie Manzanet-Daniels  
Ellen Gesmer, Justices.

-----X  
The Heirs of Margaret Kainer, et al.,  
Plaintiffs-Appellants,

-against-

M-4064  
Index No. 651491/15

Christie's Inc.,  
Defendant-Respondent.

-----X

Plaintiffs-appellants having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on July 7, 2016 (Appeal No. 904),

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

It is ordered that the motion is denied.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

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

-against-

M-3387  
Ind. No. 4678/05

Wilbur Diggs,  
Defendant-Appellant.  
-----X

A decision and order of this Court having been entered on March 10, 2009 (Appeal No. 17), unanimously affirming a judgment of the Supreme Court, New York County (Ronald A. Zweibel, J.), rendered on September 26, 2006,

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

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

It is ordered that said application is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Peter Tom, Justice Presiding,  
David Friedman  
Rosalyn H. Richter  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

-----X  
Mary Anne Fletcher,  
Plaintiff-Appellant,

-against-

M-3745  
Index No. 114698/07

Boies, Schiller & Flexner LLP, et al.,  
Defendants-Respondents.

- - - - -

Ford Models, Inc.,  
Non-Party Respondent.

-----X

Plaintiff-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on June 23, 2016 (Appeal Nos. 1554-1555),

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

It is ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Peter Tom, Justice Presiding,  
Rolando T. Acosta  
Richard T. Andrias  
Karla Moskowitz, Justices.

-----X  
Seth Mitchell, CFA,

Plaintiff-Appellant,

-against-

M-4179

Index No. 150622/13

New York University ("NYU"), et al.,

Defendants-Respondents.  
-----X

Plaintiff-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on June 16, 2015 (Appeal No. 15574), and for poor person relief,

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

It is ordered that the motion is denied. The Clerk is directed not to accept any further motions and/or filings in this matter from plaintiff without plaintiff obtaining prior leave of the Court.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
Sallie Manzanet-Daniels  
Marcy L. Kahn, Justices.

-----X  
U.S. Bank National Association, solely  
in its capacity as Trustee of the  
Home Equity Asset Trust 2007-2  
(HEAT 2007-2),  
Plaintiff-Appellant,

M-3491  
Index No. 651174/13

-against-

DLJ Mortgage Capital, Inc.,  
Defendant-Respondent.

-----  
U.S. Bank National Association, solely  
in its capacity as Trustee of the  
Home Equity Asset Trust 2006-8  
(HEAT 2006-8),  
Plaintiff-Appellant,

Index No. 654157/12

-against-

DLJ Mortgage Capital, Inc.,  
Defendant-Respondent.

-----X

Defendant-respondent having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on June 16, 2016 (Appeal Nos. 1465-1466),

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

It is ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David Friedman  
Rosalyn H. Richter  
Barbara R. Kapnick  
Ellen Gesmer, Justices.

-----X  
Alexander Gliklad,  
Plaintiff-Respondent,

-against-

M-3833  
Index No. 602335/09

Michael Cherney,  
Defendant-Appellant.  
-----X

Defendant-appellant having moved for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on June 23, 2016 (Appeal No. 1574N),

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

It is ordered that the motion is denied.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

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

-----X  
Carver Federal Savings Bank,  
Plaintiff-Respondent,

-against-

M-4355  
Index No. 810037/11

David Carroll, Mia Michaux Carroll,  
et al.,  
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about April 13, 2015,

And an order of this Court having been entered on March 29, 2016 (M-907) granting an enlargement of time to perfect the aforesaid appeal and a stay of all proceedings pending hearing and determination of the appeal taken therefrom,

And, successor in interest to plaintiff-respondent, having moved for dismissal of the aforesaid appeal,

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

It is ordered that the motion is granted and the appeal is dismissed. The stay granted by an order of a Justice of this Court, dated March 29, 2016, 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 October 25, 2016.

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

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

-against-

M-4264  
Ind. No. 680/16

Jean Carlos Rosario-Ortiz,  
Defendant-Appellant.

-----X

Defendant-appellant having moved for an enlargement of time to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about April 28, 2016,

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

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

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
David B. Saxe  
Karla Moskowitz  
Ellen Gesmer, Justices.

-----X  
In the Matter of

Nephra P. I,  
Nephra P. II,  
Nephra P. III,  
Nephra P. IV,  
Nephra P. V,  
Nephra P. VI,  
Nephra P. VII, and  
Nefertiti P.,

**M-4406**  
Docket Nos.  
B-51656-62/11  
B-49210/12

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

-----  
Forestdale, Inc. and Administration for Children's Services,  
Petitioners-Respondents,

John Lee P.,  
Respondent-Appellant,

Shanel N.,  
Respondent-Appellant.  
-----

Larry S. Bachner, Esq.,  
Court Attorney for the Children  
Nephra P. II, Nephra P. VI and  
Nephra P. VII,

Tenille M. Tatum-Evans, Esq.,  
Court Attorney for the Children  
Nephra P. III and Nephra P. V,

Andrew J. Baer, Esq.,  
Court Attorney for the Child  
Nefertiti P.

-----X

An appeal having been taken by respondent-appellant mother, Shanel N., to this Court from multiple orders of the Family Court, New York County (Under Docket Nos. B-51656-62/11), all entered on or about July 30, 2015; and an appeal having been taken by respondent-appellant mother, Shanel N., from an order of said Family Court, New York County (Under Docket No. B-49210/12), entered on or about July 30, 2015,

And an appeal having been taken from the same order by respondent John Lee P. (M-5481),

And, respondent-appellant mother, Shanel N., having moved for consolidation of the aforesaid appeals taken from orders all entered on or about July 30, 2015, under Family Court Docket Nos. B-51656-62/11 and Docket No. B-49210/12, 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 appeals are consolidated and the motion is granted to the extent of permitting appellant to prosecute the consolidated appeals upon 8 copies of one record and of one set of appellant's points covering said appeals.

ENTERED:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
David B. Saxe  
Judith J. Gische  
Marcy L. Kahn, Justices.

-----X

Koya Abe,  
Plaintiff-Appellant,

-against-

M-3555  
Index No. 105985/10

New York University, et al.,  
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on June 21, 2016 (Appeal No. 1524N),

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

It is ordered that the motion is denied.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
Richard T. Andrias  
Karla Moskowitz  
Marcy L. Kahn, Justices.

-----X  
US Bank National Association, etc.,  
et al.,  
Plaintiffs-Respondents,

-against-

M-4242  
Index No. 381069/12

Georgia Ferguson, Cheryl Campbell-Edwards,  
Connolly E. Edwards, et al.,  
Defendants-Appellants,

Equitable Ascent Financial LLC, et al.,  
Defendants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about January 7, 2015,

And an order of this Court having been entered on May 31, 2016 (M-1650), which denied defendants-appellants motion for an enlargement of time to perfect the aforesaid appeal and dismissed said appeal, without prejudice to a timely appeal from the final judgment,

And defendants-appellants having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from this Court's order entered on May 31, 2016 (M-1650),

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

It is ordered that the motion is denied.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Sallie Manzanet-Daniels  
Ellen Gesmer, Justices.

-----X  
Arbor Realty Funding, LLC,

Plaintiff-Appellant,

-against-

Herrick, Feinstein LLP,

Defendant-Respondent.  
-----X

M-3757  
Index Nos. 651079/11  
651623/11  
601122/12

Defendant-respondent having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on June 28, 2016 (Appeal No. 1156),

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

It is ordered that the motion is denied.

ENTER:

  
\_\_\_\_\_  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
David B. Saxe  
Barbara R. Kapnick  
Marcy L. Kahn, Justices.

-----X

Carey & Associates LLC,  
Plaintiff-Appellant,

-against-

M-3358  
M-3788

521 First Avenue Partners, LLC, et al.,  
Defendants,

Index No. 650165/08

Green 521 Fifth Avenue LLC,  
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on June 9, 2016 (Appeal Nos. 1420-1421) [M-3358],

And defendants-respondents having cross-moved for reargument of the aforesaid decision and order of this Court [M-3788],

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

It is ordered that the motion and cross motion are denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
Richard T. Andrias  
David B. Saxe  
Karla Moskowitz  
Marcy L. Kahn, Justices.

-----X

Michael Gardner, et al.,  
Plaintiffs-Respondents,

-against-

Tishman Construction Corporation, et al.,  
Defendants-Respondents,

M-2174  
M-2416  
M-2534  
Index Nos. 104180/10  
590892/10

Rolyn Companies, Inc.,  
Defendant-Respondent-Appellant,

Degmor, Inc.,  
Defendant-Appellant.

-----  
Tishman Construction Corporation, et al.,  
Third-Party Plaintiffs-Respondents,

-against-

E.J. Electric Installation Company, et al.,  
Third-Party Defendants-Respondents-  
Appellants,

Degmor, Inc.,  
Third-Party Defendant-Appellant.

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

Rolyn Companies, Inc.,  
Third Third-Party Plaintiff-Respondent-  
Appellant,

-against-

Prince Carpentry, Inc.,  
Third Third-Party Defendant-Respondent.

-----  
 Rolyn Companies, Inc.,  
 Fourth Third-Party Plaintiff-  
 Respondent-Appellant,

-against-

Degmor, Inc.,  
 Fourth Third-Party Defendant-  
 Appellant,

American International Specialty Lines  
 Insurance Company,  
 Fourth Third-Party Defendant.

-----X

Defendant-respondent-appellant Rolyn Companies, Inc. having moved for reargument of the decision and order of this Court entered on April 5, 2016 (Appeal Nos. 714-714A-714B-714C-714D-714E) [M-2174],

And Tishman Construction Corporation and Madison Tower Development having moved for reargument of, or in the alternative, leave to appeal to the Court of Appeals, from the aforesaid decision and order of this Court (M-2416),

And defendant-appellant Degmor, Inc. having moved for reargument of the aforesaid order (M-2534),

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 denied.

ENTER:

  
 \_\_\_\_\_  
 CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Diane T. Renwick  
Karla Moskowitz  
Judith J. Gische  
Ellen Gesmer, Justices.

-----X  
BDCM Fund Adviser, LLC, formerly known  
as Black Diamond Capital Management,  
et al.,  
Plaintiffs-Respondents-Appellants,

**SEALED**

**M-3366**

**M-3452**

-against-

Index No. 602116/08

James J. Zenni, Jr., et al.,  
Defendants-Appellants-Respondents.

-----X

Plaintiffs-respondents-appellants having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on June 30, 2016 (Appeal Nos. 1639-1640), [M-3366],

And, defendants-appellants-respondents having cross-moved to vacate the automatic stay [M-3452],

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

It is ordered that the motion and cross motion are denied.

ENTERED:



---

CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon: David Friedman Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Judith J. Gische  
Marcy L. Kahn, Justices.

-----X  
In the Matter of the Application of  
Ashley Nelson,  
Petitioner,

For a Judgment Pursuant to Article 78 M-4208  
of the Civil Practice Law and Rules, Index No. 101261/14

-against-

New York City Housing Authority,  
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 February 2, 2015,

And respondent having moved for an order dismissing the aforesaid proceeding for failure to timely perfect,

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

It is ordered that the motion is granted and the 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 October 25, 2016.

Present: Hon. David Friedman, Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Judith J. Gische  
Marcy L. Kahn, Justices.

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

-against-

**M-4348**  
Ind. No. 2782/14

Enrique Taveras, also known as Roberto  
Enrique Taveras,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about February 1, 2016, 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 8 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) one transcript 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 transcript to appellant's counsel, without charge, the transcript 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, NY 10007, Telephone No. (212) 402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTERED:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. David Friedman, Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Judith J. Gische  
Marcy L. Kahn, Justices

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

-against-

**M-4373**  
Ind. No. 3951/14

Guinevere Habersham,  
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 October 28, 2015, and from the judgment of **resentence** of said Court, rendered on or about February 3, 2016, and for leave to prosecute the appeal as a poor person on the original record and upon a reproduced appellant's brief, and for assignment of counsel,

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

It is ordered that the motion is granted to the extent of deeming the notice of appeal from the judgment rendered on or about October 28, 2015 as timely filed, and deeming the moving papers a timely filed notice of appeal from the judgment of **resentence** rendered on or about February 3, 2016 appeal, and permitting the appeal(s) to be heard on the original record(s), 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 8 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) one transcript of the stenographic minutes of **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation,  
120 Wall Street, 28th Floor, 10005, Telephone No. 212-577-2523,  
is assigned as counsel for defendant-appellant for purposes of the  
appeal. The time within which appellant shall perfect this appeal is  
hereby enlarged until 120 days from the date of filing of the record.

ENTERED:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT - Hon. David Friedman, Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Judith J. Gische  
Marcy L. Kahn, Justices.

-----X

Paul Hsu,  
Plaintiff-Appellant,

-against-

M-4447  
Index. No. 400136/14

Carolyn Shields, et al.,  
Defendants-Respondents.

-----X

Plaintiff-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about May 5, 2016, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied.

ENTER:

  
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CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

PRESENT: Hon. David Friedman, Justice Presiding,  
Richard T. Andrias  
Rosalyn H. Richter  
Judith J. Gische  
Marcy L. Kahn, Justices.

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

-against-

M-4309  
Ind. No. 199/11

Renato Seabra,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time to perfect the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about December 21, 2012,

Now, upon reading and filing the papers with respect to the motion, including the stipulation of the parties dated August 29, 2016, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time to perfect the appeal to the February 2017 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 25, 2016.

Present: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzarelli  
David Friedman  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

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

Tony R.,  
Petitioner-Appellant, M-4860  
Docket No. V-16094-06/130  
V-16095-06/130  
-against-

Stephanie D.,  
Respondent-Respondent.

-----X

Stephanie Rancer, Esq., trial counsel for the subject children, having moved on the childrens' behalf for leave to respond, as a poor persons, to the appeal from the order of the Family Court, New York County, entered on or about June 11, 2015, and for assignment of appellate counsel, a free copy of the transcript, and for related relief,

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

It is ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Thomas R. Villecco, Esq., 366 North Broadway, Suite #410, Jericho, NY 11753, Telephone No. 516-942-4221, as counsel for purposes of responding to the appeal. Petitioner-appellant and respondent-respondent are directed to serve copies of appellant's, respondent's and reply briefs on appointed counsel for the subject children immediately, and counsel for the children is directed to serve and file a respondent's brief on or before December 7, 2016 for the January

2017 Term. Petitioner-appellant father is granted leave to file a supplemental reply brief addressing the respondent's brief on the subject children, if so advised, on or before December 16, 2016 for said January 2017 Term.

ENTER:

  
CLERK