

At a 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 2, 2018.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Angela M. Mazzarelli
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X

Yorgo Valyrakis, et al.,
Plaintiffs-Appellants,

-against-

M-2771
Index No. 152111/16

346 West 48th Street Housing Development
Fund Corporation, et al.,
Defendants-Respondents.

-----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 May 1, 2018 (Appeal No. 6242), and for confirmation that the first and third causes of action are finally disposed of by this Court's order,

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

It is ordered that the motion is denied in its entirety.

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 2, 2018.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Judith J. Gische
Barbara R. Kapnick
Anil C. Singh, Justices.

-----X
Gold Bar Refinery Corp., et al.,
Plaintiffs-Respondents,

-against-

M-3487
Index No. 653275/14

So Accurate Group, Inc.,
Defendant-Appellant.
-----X

Plaintiffs-respondents having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on June 14, 2018 (Appeal Nos. 6888, 6889, 6890),

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 2, 2018.

PRESENT: Hon. Rosalyn H. Richter, Justice Presiding,
Peter Tom
Angela M. Mazzarelli
Ellen Gesmer
Peter H. Moulton, Justices.

-----X

Kathleen Bednark,
Plaintiff-Respondent,

-against-

The City of New York, et al.,
Defendants-Respondents,

M-3670
Index No. 102889/09

Heron Real Estate Corp.,
Defendant-Appellant,

BP America, Inc., et al.,
Defendants.

-----X

Defendant-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on June 21, 2018 (Appeal Nos. 6951-6952),

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 2, 2018.

PRESENT: Hon. Rosalyn H. Richter, Justice Presiding,
Troy K. Webber
Marcy L. Kahn
Cynthia S. Kern
Jeffrey K. Oing, Justices.

-----X
Shawmut Woodworking & Supply, Inc.,
doing business as Shawmut Design
and Construction,
Plaintiff-Respondent,

-against-

M-3440
Index No. 653350/15

ASICS America Corporation,
Defendant-Appellant,

3BP Property Owner LLC, et al.,
Defendants.

-----X

Plaintiff-respondent having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on June 12, 2018 (Appeal No. 6849),

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 2, 2018.

PRESENT: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Judith J. Gische
Cynthia S. Kern
Anil C. Singh, Justices.

-----X
Anthony Farrugia,
Plaintiff-Respondent,

-against-

1440 Broadway Associates, et al., M-3540
Defendants-Respondents-Appellants. Index No. 151857/12

-----X
Harbour Mechanical Corp.,
Third-Party Plaintiff-Appellant,

-against-

Third-Party
Index No. 590634/13

The Martin Group, LLC, et al.,
Defendants.

-----X

Third-party plaintiff-appellant having moved for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on July 12, 2018 (Appeal No. 4901), and for a stay of trial pursuant to CPLR 5519(c) pending determination of the appeal by the Court of Appeals, in the event leave is granted,

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

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

(M-3540)

-2-

October 2, 2018

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

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 2, 2018.

PRESENT: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Peter Tom
Troy K. Webber
Jeffrey K. Oing, Justices.

-----X

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

CONFIDENTIAL

M-3893

Sune G.,
Petitioner-Respondent,

Docket Nos. V-10482/13C
V-10482/13

-against-

Michelle M.,
Respondent-Appellant.

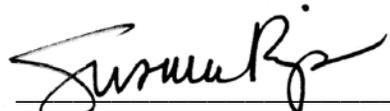
-----X

Respondent-appellant having moved for a stay enforcement of an order of the Family Court, New York County, dated July 9, 2018, and to remand the matter for a hearing, as to changed circumstances and the best interests of the child before another Judge,

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 2, 2018.

PRESENT: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Peter Tom
Troy K. Webber
Jeffrey K. Oing, Justices.

-----X

Belinda Donnelly and Jeffrey
Donnelly,
Plaintiffs-Defendants-Appellants,

-against-

M-4408
Index No. 154988/18

Hubert Neuman, etc., et al.,
Defendants-Plaintiffs-Respondents.

-----X

An appeal having been taken from an order and judgment (one paper) of the Supreme Court, New York County, entered on or about August 30, 2018,

And plaintiffs-defendants-appellants having moved for an order staying enforcement of the aforesaid order and judgment pending hearing and determination of the appeal taken therefrom,

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

It is ordered that the motion is denied and the interim relief granted by an order of a Justice of this Court, dated September 4, 2018, is vacated.

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 2, 2018.

PRESENT: Hon. Judith J. Gische, Justice Presiding,
Troy K. Webber
Jeffrey K. Oing
Anil C. Singh
Peter H. Moulton, Justices.

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

-against-

M-3204
Ind. No. 3508/14

Stephen Wiggins,
Defendant-Appellant.

-----X

An order of this Court having been entered on February 28, 2017 (M-6359), granting defendant leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about December 15, 2015, and assigning Seymour W. James, Jr., Esq., predecessor chief counsel to Justine M. Luongo, Esq., The Legal Aid Society, as counsel to prosecute the appeal; and a motion having been made by assigned counsel to be relieved, and for related relief,

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

It is ordered that the motion is granted to the extent of striking the designation of The Legal Aid Society, as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 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 180 days from the date of this order or the date of receipt of the complete record, whichever is later.

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 2, 2018.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-3241
Ind. No. 1890/15

Felix Santos,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about June 6, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-3562
Ind. No. 4633/17

Robert Pruden,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about June 7, 2018, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

CONFIDENTIAL

M-3890

Ind. No. 577N/16

Elpidio Conce Valerio,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about September 20, 2016, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against- **M-4024**
Ind. No. 745/16

Bryan Jones,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeals taken from a judgment of the Supreme Court, Bronx County, rendered on or about November 9, 2017 and from a judgment of **resentence**, same Court, rendered on or about January 11, 2018, for leave to have the appeals 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 appeals 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete records.

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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4025

Ind. No. 777/17

Edward Roman,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about March 22, 2018, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4026

Ind. No. 2421/17

Giovanni Bermudez,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about January 29, 2018, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4028

Ind. No. 572/17

Eliezel Diaz,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about February 6, 2018, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4030

Ind. No. 3/17

James Smallwood,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about March 9, 2018, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4031

Ind. No. 3307/16

Fernando Rios,

Defendant-Appellant.
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about January 25, 2018, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4041

Ind. No. 3369/16

Shaquille Fuller,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about June 7, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4042

Ind. No. 4352/16

Cesar Cabreja,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about October 12, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4043

Ind. No. 2414/16

Joseph Espada,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about October 27, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4050

Ind. No. 2659/15

Ramon Estevez-Marcelino,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about November 9, 2016, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4052

Ind. No. 2354/16

Michael Ocasio,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about October 19, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Justine M. Luongo, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4053

Ind. No. 2194/15

Jonathan Bennett,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about November 8, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4054

Ind. No. 2327/16

Allen Hawkins,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about August 3, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4055

Ind. No. 4736/16

Tyrece Martin,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about November 21, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete record.

ENTERED:


CLERK

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4089

Ind. No. 1738/17

Kyle Collier,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about November 28, 2017, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
John W. Sweeny, Jr.
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-4364

Ind. No. 1541/16

Wayne McBayne,

Defendant-Appellant.

-----X

An order of the Supreme Court, New York County, having been entered on or about December 15, 2017, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about December 15, 2017,

Now, upon reading and filing the order which granted defendant poor person relief on appeal, and the notice of appeal filed on defendant's behalf,

It is ordered that the appeal is permitted 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 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, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
John W. Sweeny, Jr.
Judith J. Gische
Angela M. Mazzarelli
Ellen Gesmer, Justices.

-----X

Lawrence Kingsley,
Plaintiff-Appellant,

-against-

M-3357
Index No. 162016/15

300 W. 106th St. Corp.,
Defendant-Respondent.

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

-----X

Plaintiff-appellant, pro se, 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 5, 2018 (Appeal Nos. 6778, 6778A, 6778B, 6778C & M-2402),

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
John W. Sweeny, Jr.
Barbara R. Kapnick
Marcy L. Kahn
Jeffrey K. Oing, Justices.

-----X
Svetlana Martin,
Plaintiff-Appellant,

-against-

M-4336
Index No. 103214/10

Stephen Silver, M.D.,
Defendant-Respondent.
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about May 26, 2017, and said appeal having been perfected,

And defendant-respondent having to dismiss the aforesaid appeal, or in the alternative, for an enlargement of time to file a respondent's brief,

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

It is ordered that so much of the motion seeking dismissal of the aforesaid appeal is denied. Sua sponte, defendant is granted leave to file a supplemental appendix, if so advised, with costs to abide the appeal. The perfected appeal is adjourned to the January 2019 Term.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
John W. Sweeny, Jr.
Barbara R. Kapnick
Ellen Gesmer
Anil C. Singh, Justices.

-----x
Luissa Chekowsky,

Plaintiff-Respondent,

-against-

M-4394

Index No. 106532/11

Windermere Owners LLC and
Windermere Chateau, Inc.,
Defendants-Appellants.

-----x
Gary Smoke,

Plaintiff-Respondent,

-against-

Index No. 113051/11

Windermere Owners LLC and
Windermere Chateau, Inc.,
Defendants-Appellants.

-----x
Laura DiLorenzo,

Plaintiff-Respondent,

-against-

Index No. 110053/11

Windermere Owners LLC and
Windermere Chateau, Inc.,
Defendants-Appellants.

-----x

Appeals having been taken from judgments of the Supreme Court, New York County, entered on or about October 30, 2017 and October 26, 2017, and said appeals having been perfected,

And counsel for plaintiffs-respondents having moved to consolidate the aforesaid appeals only to the extent of placing the appeals for hearing together on the same date of the November 2018 Term,

(M-4394)

-2-

October 2, 2018

Now, upon reading and filing the of stipulation of the parties dated September 13, 2018, and due deliberation having been had thereon,

It is ordered that the motion for consolidation is withdrawn in accordance with the aforesaid stipulation.

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 2, 2018.

Present - Hon. David Friedman, Justice Presiding,
Judith J. Gische
Barbara R. Kapnick
Marcy L. Kahn
Jeffrey K. Oing, Justices.

-----x
Stephanie Markel,

Plaintiff-Appellant,

-against-

M-4083
Index No. 156671/15

Pure Power Boot Camp, Inc., et al.,

Defendants-Respondents.
-----x

Plaintiff-appellant having moved for an enlargement of time to perfect the appeal taken from an order of the Supreme Court, New York County, entered on or about November 27, 2017,

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 to perfect the appeal to the January 2019 Term.

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 2, 2018.

Present - Hon. David Friedman, Justice Presiding,
Judith J. Gische
Barbara R. Kapnick
Marcy L. Kahn
Jeffrey K. Oing, Justices.

-----x
In the Matter of the Application of
New York City Transit Authority,
Petitioner-Appellant,

-against-

M-4553
Index No. 452557/16

Precision Imaging of New York,
Respondent-Respondent.
-----x

Petitioner-appellant having moved for an enlargement of time to perfect the appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about December 29, 2017,

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 to perfect the appeal to the February 2019 Term.

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 2, 2018.

Present - Hon. David Friedman, Justice Presiding,
Judith J. Gische
Barbara R. Kapnick
Marcy L. Kahn
Jeffrey K. Oing, Justices.

-----x

In the Matter of the Application of
New York City Transit Authority,

Petitioner-Appellant,

-against-

M-4554

Index No. 450373/17

Tiffany Frias, et al.,

Respondents-Respondents.

-----x

Petitioner-appellant having moved for an enlargement of time to perfect the appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about January 3, 2018,

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 to perfect the appeal to the February 2019 Term.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Peter Tom
Angela M. Mazzarelli
Anil C. Singh, Justices.

-----X
Norddeutsche Landesbank
Girozentrale and Hannover Funding
Company LLC,
Plaintiffs-Respondents,

-against-

M-3666
Index No. 651695/15

Lynn Tilton, Patriarch Partners, LLC,
Patriarch Partners XIV, LLC, and
Patriarch Partners XV, LLC,
Defendants-Appellants.

-----X

An appeal having been taken from orders of the Supreme Court, New York County, entered on or about January 12, 2018 and May 25, 2018,

And an order of this Court entered on July 12, 2018 (M-2707), having, inter alia, granted defendant's motion for a stay of tax related discovery as directed in the aforesaid orders, on condition that the appeal is perfected for the October 2018 Term and on further condition that the stay is limited to the deposition testimony by defendant-appellant Tilton's personal tax attorney, and only to the extent that questions impinge on attorney-client privilege and only to the deposition of defendant Tilton's personal tax preparer, to the extent that questioning extends to her personal tax records filed with tax authorities,

And defendants-appellants having moved for clarification and/or reargument of the aforesaid 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.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

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

Leida N.,
Petitioner-Respondent,

CONFIDENTIAL

M-3555

Docket No. O-30545/17

-against-

Harry R.,
Respondent-Appellant.

-----x
An appeal having been taken to this Court from the order of the Family Court, Bronx County, entered on or about June 19, 2018,

And respondent-appellant having moved for leave to prosecute said appeal as a poor person, for the assignment of counsel, and for related relief,

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

It is ordered that the motion is denied, with leave to renew, upon submission of a proper affidavit of service.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Capital Stack, LLC,
Plaintiff,

-against-

Action No. 1

M-3681

Index No. 652807/15

Raharney Capital, LLC and Sean Murray,
Defendants.

-----X
Sean Murray and Raharney Capital, LLC,
Third-Party Plaintiffs,

-against-

Action No. 2

Capital Stack, LLC, etc., et al.,
Third-Party Defendants.

-----X

Defendants/third-party plaintiffs having moved, pursuant to CPLR 5704(a), for an order granting certain relief denied by a Justice of the Supreme Court, New York County, on July 20, 2018,

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Miriam Feliciano, as Administratrix of
the Estate of Alice Miriam Cintron
Gonzalez, and Miriam Feliciano,
Individually,
Plaintiffs-Appellants,

-against-

M-3472
Index No. 21023/13E

St. Barnabas Nursing Home, Inc.,
etc. et al.,
Defendants-Respondents.

-----X

Defendants-respondents having moved for dismissal of the appeal taken from an order of the Supreme Court, Bronx County, entered on or about December 12, 2016, 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.

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 2, 2018.

Present - Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

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

-against-

M-3484
Ind. No. 2122/16

Naquan Robinson,
Defendant-Appellant.

-----X

An order of this Court having been entered on November 29, 2016 (M-5706), inter alia, granting defendant's motion 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 14, 2016, and The Legal Aid Society was assigned as counsel therefor,

And defendant's assigned counsel having moved to dismiss the aforesaid appeal, without prejudice to reinstatement at such time as appellant again becomes amenable to the jurisdiction 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 granted to the extent that the appeal is deemed withdrawn.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Garry Anderson,
Plaintiff-Respondent,

-against-

M-3491
Index No. 302035/14

745 Whittier Street LLC, Advance Transit Services Inc., Advance Transit Bus Company, Inc., and Advance Transit Co., Inc.,
Defendants-Appellants.
-----X

Plaintiff-respondent having moved for an order dismissing the appeal taken from an order of the Supreme Court, Bronx County, entered on or about May 11, 2018, for failure to file the notice of appeal within 30 days of service of notice of entry of the order on appeal (CPLR 5513[a]),

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.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Board of Directors of Windsor
Owners Corp.,
Plaintiff-Appellant,

-against-

M-3493
Index No. 155985/14

Elaine Platt,
Defendant-Respondent.

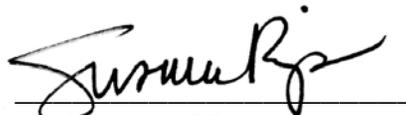
-----X

Defendant-respondent having moved to dismiss the appeal taken from an order of the Supreme Court, New York County, entered on or about April 12, 2018, as no appeal lies from a Court declining to sign a proposed order to show cause,

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.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Harry Kleinman and Judith Kleinman,
Plaintiffs-Respondents,

-against-

Sortir Chiacu and Rodica Chiacu,
Defendants-Appellants.

M-3496
M-3923
Index No. 36283/17

-----X

Defendants-appellants having moved for a stay of all post-judgment proceedings pending determination of the appeal taken from an order of the Supreme Court, Bronx County, entered on or about July 2, 2018 (M-3496),

And plaintiffs-respondents having cross-moved for costs, including attorney's fees, incurred in opposing the motion, (M-3923),

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 to stay all post-judgment proceedings pending determination of the appeal is denied (M-3496). The cross motion for costs in opposing the motion is denied (M-3923) .

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 2, 2018.

Present: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Earl Davis,
Petitioner-Respondent,

-against-

M-3597
Index No. 157421/17

Leigh Morse, et al.,
Respondents-Appellants.

For Judgment Pursuant to CPLR 5225
to Compel Payment of a Debt Owed
By Judgment Debtor
-----X

A purported appeal having been taken from a decision of the Supreme Court, New York County, entered on or about February 9, 2018,

And respondent-appellant Leigh Morse having moved for an order deeming the notice of appeal from the aforesaid decision to be a timely notice of appeal from an order and judgment (one paper) of the same Court, entered on May 8, 2018, pursuant to the aforesaid decision, or for leave to file a late notice of appeal from said judgment,

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

It is ordered that the motion is denied in its entirety.

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 2, 2018.

Present - Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

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

Respondent,

-against-

M-3607

Ind. Nos. 2850/15
1275/15

Latisha Fisher

Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, New York County, rendered on or about November 20, 2017, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of deeming the notice of appeal as timely filed 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 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, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-3656
Ind. No. 1571N/16

Alexander Gesin,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, New York County, rendered on or about February 15, 2018, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of deeming the moving papers a timely filed notice of appeal and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 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, New York, New York 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 180 days from the date of receipt of the complete 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 2, 2018.

Present - Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-3658
Ind. No. 6486/02

Edilbe Chavez,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, New York County, rendered on or about June 26, 2017, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of deeming the notice of appeal as timely filed 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

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 transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 180 days from the date of receipt of the complete 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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Randi Sachar,
Plaintiff-Appellant,

-against-

M-3623
Index No. 106847/10

AMC Entertainment Inc., etc., et al.,
Defendants-Respondents.

-----X

Defendants-respondents Columbia Pictures Industries Inc. sued herein as Columbia Pictures and Sony Pictures Entertainment, Inc. having moved to dismiss the appeal taken from a judgment of the Supreme Court, New York County, entered on or about September 27, 2016, for failure to timely perfect, and for an award of costs,

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

It is ordered that the motion is granted to the extent of deeming the appeal dismissed.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----x

Steven Alevy,
Plaintiff-Respondent,

CONFIDENTIAL

M-3646

-against-

Index No. 306655/11

Rifka Herz,
Defendant-Appellant,

-----x

An appeal having been taken to this Court from orders of the Supreme Court, New York County, entered on or about June 22, 2018 and July 9, 2018,

And defendant-appellant, pro se, having moved for an order staying the aforesaid orders insofar as they modified her access to the child pending her appeal; re-instituting the prior supervised access schedule; directing plaintiff to continue to pay 100% of the costs of supervised visitation and that Ann Sydor continue in the role of supervisor; for leave to prosecute, as a poor person, the aforesaid appeal, 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 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record. The motion is otherwise 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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
NYCTL 2012-A Trust and The Bank of
New York Mellon, as Collateral Agents
and Custodian,
Plaintiffs-Respondents,

-against-

1698 Lex Corp.
Defendant-Appellant,

M-3669
Index No. 155415/13

Residential Funding Corporation,
et al.,
Defendants-Respondents,

Tower Lexington Inc and NJ Equity
Partners LLC,
Defendants-Intervenors-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about July 12, 2018,

And defendant-appellant 1698 Lex Corp. having moved: to stay all proceedings; to enforce the July 12, 2018 Supreme Court order, to enjoin and restrain intervenors and their officers, agents, etc. from taking any steps to transfer, assign, alienate, encumber or dispose of the subject property or to exclude its current occupants from the premises or from entering the premises without providing the current occupant with at least two business days notice for the purpose of showing the premises to any lender, mortgagee, real estate broker or prospective purchaser or the intervenor entities, or any agent, employee, etc. of these persons or entities, pending hearing and determination of the aforesaid appeal,

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

(M-3669)

-2-

October 2, 2018

It is ordered that the motion is granted on condition the appeal is perfected for the February 2019 Term.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----x
In the Matter of the Application of
Xue Jie He,
Plaintiff-Appellant,

For a Judgment Pursuant to Article 78 M-3726
of the Civil Practice Law and Rules, Index No. 101247/17

-against-

Guttenberg NJ Police, Christ Hospital,
and Hudson County Prosecutor's Office,
Defendants-Respondents.

-----x
Plaintiff-appellant, pro se, having moved for leave to prosecute, as a poor person, the appeal taken from an order of the Supreme Court, New York County, entered on or about May 4, 2018, and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for other relief,

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

It is ordered that the motion is denied.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Gidar Manuel Cuevas,
Plaintiff-Respondent,

-against-

M-3763
Index No. 306798/13

Baruti Construction Corp.,
Defendant-Appellant.

-----X
Baruti Construction Corp.,
Third-Party Plaintiff,

-against-

Third Party
Index No. 83700/15

Dynasty Roofing Siding and
Waterproofing, LLC, et al.,
Third-Party Defendants.

-----X

Defendant-appellant/third-party plaintiff having moved for a stay of trial pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about July 10, 2017,

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

It is ordered that the motion is denied as moot, the appeal having been decided.

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 2, 2018.

PRESENT: Hon. David Friedman, Justice Presiding,
Barbara R. Kapnick
Marcy L. Kahn
Jeffrey K. Oing, Justices.

-----x
Bradley C. Aldrich, et al.,
Plaintiffs-Appellants, M-3437
-against- M-3663
M-4120
Index No. 602803/07
Northern Leasing Systems, Inc.,
et al.,
Defendants-Respondents.

-----x
An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 23, 2016, and said appeal having been perfected,

And defendants-respondents having moved to dismiss the aforesaid appeal on the grounds that the record omits critical exhibits (M-3437),

And plaintiffs-appellants having cross-moved for leave to supplement the record on appeal and for an enlargement of time to perfect the aforesaid appeal (M-3663),

And plaintiffs-appellants having moved to strike respondents' brief for making scandalous, prejudicial, personal attacks dehors the record or, in the alternative, to strike certain portions of the brief that mention the aforesaid allegations and for the award of attorneys' fees and expenses, and other relief (M-4120)

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 motion to dismiss the appeal is denied, without prejudice to defendants' filing a supplemental record and, if so advised, a new respondent's brief which addresses the supplemental record on or before October 31, 2018 for the December 2018 Term, to which Term the appeal is, sua sponte, adjourned. Plaintiffs are granted leave to file a new reply brief addressing respondent's replacement brief, if so advised (M-3437). The cross motion by plaintiffs-appellants

for an enlargement of time to perfect the appeal is denied as unnecessary (M-3663). The motion by plaintiffs-appellants seeking leave to strike respondents' brief, and or portions of that brief and for sanctions is denied (M-4120).

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 2, 2018.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,
Rosalyn H. Richter
Marcy L. Kahn
Peter H. Moulton, Justices.

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

-against-

Elvis McKenzie,
Defendant-Appellant.

M-3180
Ind. Nos. 2257/12
2312/12

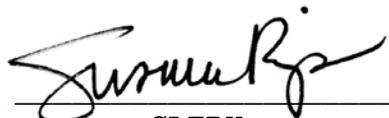
-----X

Defendant-appellant having moved for reargument of the decision and order of this Court, entered on May 31, 2018 (Appeal Nos. 6736-6737),

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 2, 2018.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,
Rosalyn H. Richter
Marcy L. Kahn
Peter H. Moulton, Justices.

-----X
M.H. Davidson & Co., et al.,
Plaintiffs-Appellants,

-against-

M-3297
Index No. 652571/16

C-III Asset Management, LLC,
Defendant-Respondent,

Commercial Mortgage Pass-Through
Certificates Series 2007-C5 Trust,
Nominal Defendant.

-----X

Plaintiffs-appellants having moved for reargument of the decision and order of this Court, entered on May 31, 2018 (Appeal No. 6747),

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 2, 2018.

PRESENT: Hon. John W. Sweeny, Jr., Justice Presiding,
Ellen Gesmer
Cynthia S. Kern
Anil C. Singh, Justices.

-----X

In re Jan Jan Realty Corp.,
Petitioner-Respondent,

-against-

M-3713
Index No. 100050/15

NYC Environmental Control Board,
etc., et al.,
Respondents-Appellants.

-----X

Petitioner-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 April 3, 2018 (Appeal No. 6182),

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 2, 2018.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Sallie Manzanet-Daniels
Angela M. Mazzarelli
Troy K. Webber
Anil C. Singh, Justices.

-----X
Gidar Manuel Cuevas,
Plaintiff-Respondent,

-against-

M-4497
Index No. 306798/13

Baruti Construction Corp.,
Defendant-Appellant.
-----X

Defendant-appellant having moved for a stay of trial pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about August 1, 2018,

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 2, 2018.

Present - Hon. Dianne T. Renwick, Justice Presiding,
Judith J. Gische
Angela M. Mazzarelli
Cynthia S. Kern
Peter H. Moulton, Justices.

-----x
Bofi Federal Bank, formerly known as
Bank of Internet,
Plaintiff-Respondent-Appellant,

-against-

Kim Davis,
Defendant-Respondent,

M-4151
Index No. 850394/13

Board of Managers of Perla's
Puebla Condominium,
Defendant-Appellant-Respondent,

JPMorgan Chase Bank, N.A., et al.,
Defendants.

-----x

An appeal and cross appeal having been taken from an order of the Supreme Court, New York County, entered on or about February 9, 2017,

And plaintiff-respondent-appellant having moved for an enlargement of time to perfect the cross appeal from the aforesaid order,

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 to perfect the cross appeal to the January 2019 Term.

ENTERED:


CLERK