

At a 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 8, 2009.

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

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

-against-

M-4217  
Ind. No. 664/08

Anthony Lindsey,  
Defendant-Appellant.

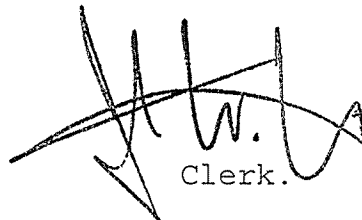
-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about April 24, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated September 8, 2009, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

-----X  
Orly Genger,  
Plaintiff-Respondent,

-against-

M-4251X  
Index No. 100697/08

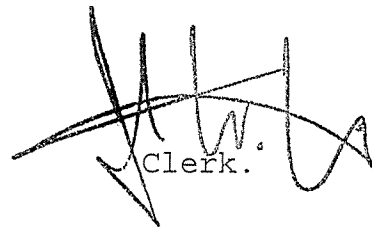
Sagi Genger,  
Defendant-Appellant.  
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 14, 2008 (mot. seq. no. 002),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 15, 2009, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

-----X

UBS Real Estate Securities Inc.,

Plaintiff-Respondent,

-against-

M-4252X

Index No. 600698/07

Fairmont Funding, Ltd., et al.,

Defendants-Appellants.

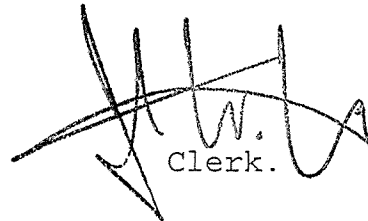
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 6, 2009 (mot. seq. no. 004),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 15, 2009, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

-----X

Carver Federal Savings Bank,

Plaintiff-Appellant,

-against-

M-4269X

Index No. 601658/08

Quentin Low, Inc., et al.,

Defendants-Respondents.

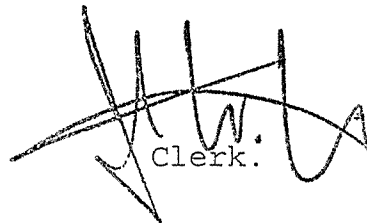
-----X

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

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 17, 2009, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

-----X

Francisco J. Gonzalez,  
Plaintiff-Respondent,

-against-

M-4270X  
Index No. 302873/08

Dangelo Corp., et al.,  
Defendants-Appellants.

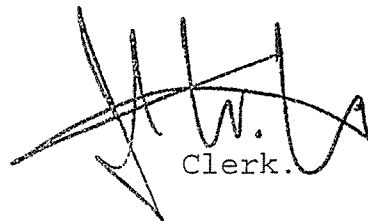
-----X

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

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 17, 2009, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

-----X  
Millennium Development LLC,  
Plaintiff-Respondent-Appellant,

-against-

M-4253X  
Index No. 603872/06

63-67 West 35<sup>th</sup> Street LLC,  
Defendant-Appellant-Respondent.

-----X  
63-67 West 35<sup>th</sup> Street LLC,  
Third-Party Plaintiff-Appellant-  
Respondent,

-against-

Margaret Peter, Individually and  
doing business as Millennium  
Development LLC,  
Third-Party Defendant-Respondent-  
Appellant.

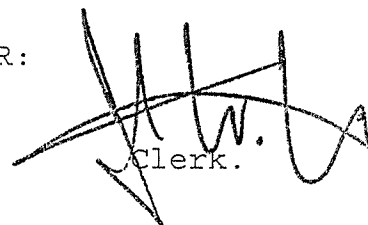
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An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about July 25, 2008 (mot. seq. nos. 005 and 006),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" September 18, 2009, and due deliberation having been had thereon,

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

-----X  
Lapidus & Associates, LLP,  
Plaintiff-Respondent,

-against-

Allan S. Reiver, et al.,  
Defendants-Appellants.

M-4268  
Index No. 601954/05

-----X  
Allan S. Reiver, et al.,  
Third-Party Plaintiffs-Appellants,

-against-

Steven R. Lapidus, Esq.,  
Third-Party Defendant-Respondent.

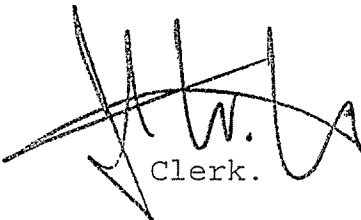
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 28, 2008,

Now, upon reading and filing the stipulation of the parties hereto, filed September 18, 2009, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the October 2009 Term, is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

-----X  
In the Matter of the Retention of

William K.,  
Respondent,

A Patient Admitted to Bellevue Hospital.

M-3797

Index No. Unknown

- - - - -  
New York City Health and Hospitals Corporation, Office of Legal Affairs, on behalf of Bellevue Hospital Center,  
Defendants-Appellants,

Mental Hygiene Legal Services,  
on Behalf of William K.

-----X

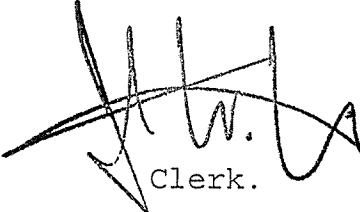
An appeal having been taken from the order of release of the Supreme Court, New York County, entered on or about August 4, 2009,

And defendants-appellants having moved for a stay of release, pending the hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from counsel for defendants-appellants, dated September 1, 2009, and due deliberation having been had thereon, it is

Ordered that the aforesaid motion and the underlying appeal are deemed withdrawn.

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 8, 2009.

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

-----X  
Concourse Rehabilitation & Nursing  
Center, Inc., GCNH Management Associates,  
Inc., Marvin Neiman and Hannah Halberstam,  
Plaintiffs-Respondents,

-against-

M-3559  
Index No. 303124/07

Gracon Associates, a partnership and  
Jack Schleifer,  
Defendants-Appellants.

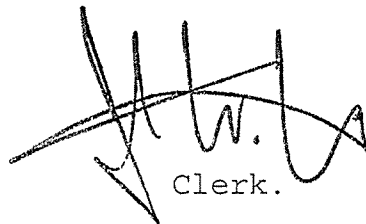
-----X

Defendants-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 2, 2009 (Appeal No. 1011N),

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 8, 2009.

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

-----X  
Cabrin Terrace Joint Venture,

Petitioner-Landlord-Respondent,

M-3880

M-3957

-against-

Index No. 570255/08

Charles O'Brien,

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

An order of this Court having been entered on July 28, 2009 (M-2737), inter alia, granting respondent-tenant-appellant leave to appeal to this Court from the order of the Appellate Term entered in the Office of the Clerk of the Supreme Court, New York County, on or about April 29, 2009,

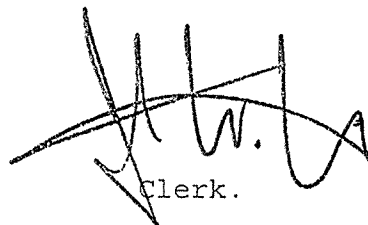
And respondent-tenant-appellant having moved for an enlargement of time in which to perfect the aforesaid appeal, and for related relief (M-3880),

And petitioner-landlord-respondent having cross-moved to modify so much of the aforesaid order of this Court entered on July 28, 2009 (M-2737) which granted a stay of eviction, to the extent of requiring respondent-tenant-appellant pay for monthly use and occupancy on the subject premises,

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 is granted to the extent of enlarging the time in which to perfect the appeal to on or before December 7, 2009 for the February 2010 Term, and the continuing the stay of eviction afforded respondent-tenant-appellant by the order of a Justice of this Court entered on June 10, 2009 (M-3880). The cross motion is denied (M-3957).

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 8, 2009.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
Richard T. Andrias  
Karla Moskowitz  
Dianne T. Renwick, Justices.

-----X  
Nomura Asset Capital Corporation,  
et al.,  
Plaintiffs-Respondents,

-against-

Cadwalader, Wickersham & Taft LLP,  
Defendant-Appellant.

M-3099  
Index No. 116147/06

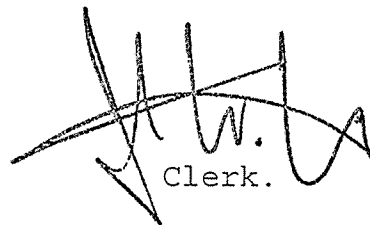
-----X

Defendant-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 26, 2009 (Appeal No. 77N),

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 8, 2009.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
John W. Sweeny, Jr.  
James M. McGuire  
Leland G. DeGrasse, Justices.

-----X  
Isabella Ayoub,  
Plaintiff-Respondent,

-against-

M-3258  
Index No. 305392/08

Joseph Ayoub,  
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 11, 2009 (Appeal No. 5400N),

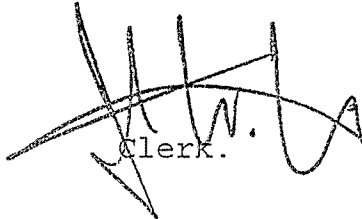
Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted, and 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 this Court, which modified in part the order of the Supreme Court, properly made?"

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 8, 2009.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Richard T. Andrias  
James M. Catterson  
Rolando T. Acosta  
Sheila Abdus-Salaam, Justices.

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

-against-

M-3927  
Ind. No. 6540/04

Antonio Torrecilla,

Defendant.

-----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 July 14, 2006, 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. (See CPL 460.30 subd. 1)

Enter:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
John W. Sweeny, Jr.  
John T. Buckley  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
R&R Capital LLC, et al.,  
Plaintiffs-Appellants,

-against-

M-3376  
Index No. 604080/05

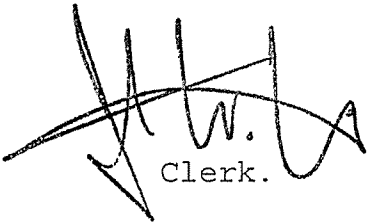
Linda Merritt, etc.,  
Defendant-Respondent.  
-----X

Defendant-respondent Linda Merritt 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, 2009 (Appeal No. 904N),

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 8, 2009.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Eugene Nardelli  
Leland G. DeGrasse  
Helen E. Freedman, Justices.

-----X  
Francis Peters,  
Plaintiff-Appellant,

-against-

M-3833  
Index No. 7208/07

Marino Pache and Cappress  
Contracting,  
Defendants-Respondents.

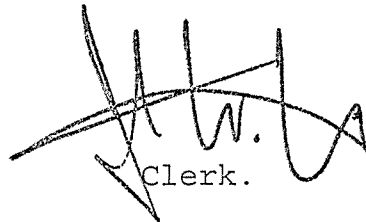
-----X

Defendants-respondents having moved for dismissal of the appeal taken from an order of the Supreme Court, Bronx County, entered on or about October 10, 2008,

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

It is ordered that the motion is granted 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 8, 2009.

Present: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Eugene Nardelli  
Leland G. DeGrasse  
Helen E. Freedman, Justices.

-----X  
Roberto Romero,  
Plaintiff-Appellant,

-against-

M-3828  
Index No. 28336/02

Twin Parks Southeast Houses, Inc.,  
et al.,  
Defendants-Respondents.

-----X

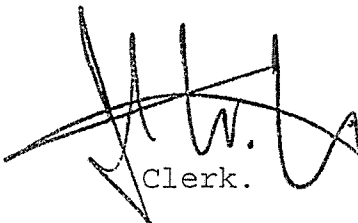
Appeals having been taken from the order of the Supreme Court, Bronx County, entered on or about October 27, 2008, and from the judgment of said Court, entered on or about March 4, 2009, respectively,

And plaintiff-appellant having moved to enlarge the time in which to perfect the aforesaid appeal taken from the order entered on or about October 27, 2008,

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

It is ordered that, sua sponte, the aforesaid appeals are consolidated, and the time in which to perfect said appeals is enlarged to on or before November 9, 2009 for the January 2010 Term. Plaintiff-appellant is permitted to prosecute the consolidated appeals upon 10 copies of one record and of one set of appellant's points covering the appeals.

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 8, 2009.

PRESENT: Hon. Peter Tom, Justice Presiding,  
John T. Buckley  
James M. Catterson  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
ChrisHEMA C., an infant under the age of 14 years, by her mother and natural guardian, Terri Thompson-Gomillion, and Terri Thompson-Gomillion, Individually,  
Plaintiffs-Respondents,

-against-

M-4361  
Index No. 109350/06

The New York City Housing Authority,  
Defendant-Appellant,

The City of New York and Leonidez Caraballo,  
Defendants.

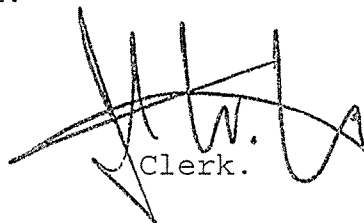
-----X

Defendant-appellant having moved for a stay of trial pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about February 24, 2009 (mot. seq. no.: 005),

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

It is ordered that the motion is granted.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

-----X  
In the Matter of

Joseph H., Jr.,

A Dependent Child Under the Age of  
18 Years Alleged to be Abused and/or  
Neglected Under Article 10 of the  
Family Court Act.

M-3365  
Docket No. N24595/07

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

Joseph H.,  
Respondent-Appellant.

-----  
Baron Edward de Rothschild Chemical  
Dependency Institute, et al.,  
Amici Curiae.

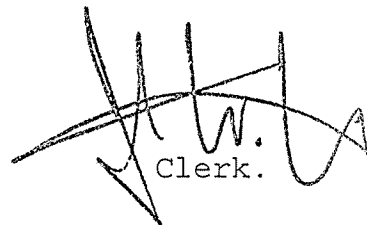
-----X  
An appeal having been taken from the order of the Family Court, Bronx County, entered on or about April 14, 2008,

And petitioner-respondent having moved for an order dismissing 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.

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 8, 2009.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
John W. Sweeny, Jr.  
Eugene Nardelli  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

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

-against- M-3875  
Ind. No. 2661/08

Luis Cajigas,  
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about January 5, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

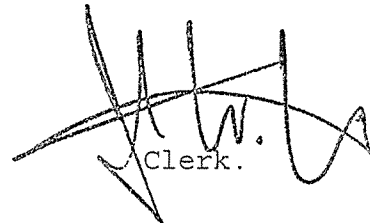
Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

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

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

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

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

-against-

M-3840  
Ind. No. 4896/06

Derrick Lattimore,  
Defendant-Appellant.

-----X

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

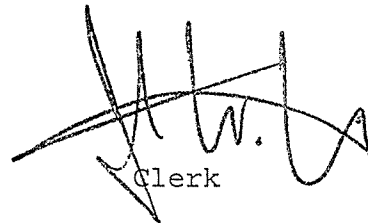
Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

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

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

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

Enter:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

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

-against-

M-3890  
Ind. No. 5994/07

Russell Clough,  
Defendant-Respondent.

-----X

The People having taken an appeal from the order of the Supreme Court, New York County, entered on or about June 9, 2008,

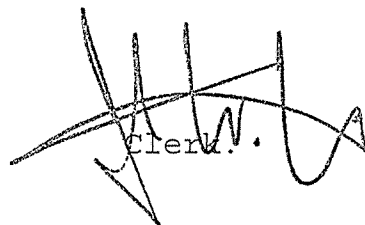
And Albert A. Gaudelli, Esq., retained counsel for defendant-respondent, having moved to be relieved as counsel and for the assignment of other counsel to defendant for purposes of responding to the People's appeal,

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

It is ordered that the motion is granted to the extent of relieving Albert A. Gaudelli, Esq., as defendant's counsel, and it is further

Ordered that the motion is granted to the extent of (1) permitting defendant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the People and 10 copies thereof are filed with this Court, and (2) assigning, pursuant to Section 722 of the County Law, Alice L. Fontier, Esq., Law Offices of Joshua L. Dratel, P.C., 2 Wall Street, 3<sup>rd</sup> Floor, New York, NY 10005, Telephone No. (212) 732-0707, as counsel for purposes of responding to the appeal. The appeal is adjourned to the January 2010 Term.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

-----X

In the Matter of

Kalpana Patel, MD,

Petitioner-Appellant,

M-3862

Index No. 116677/07

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

-against-

Richard F. Daines, MD, etc., et al.,

Respondents-Respondents.

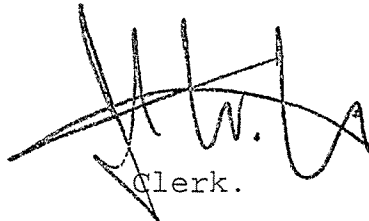
-----X

Petitioner-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about October 8, 2008 (mot. seq. no. 001),

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

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

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

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

-against-

M-3997  
Ind. No. 989/08

Derek Moore,  
Defendant-Appellant.

-----X


An order of this Court having been entered on August 18, 2009 (M-3333), inter alia, granting defendant's motion for leave to prosecute, as a poor person, the appeal from the judgment of resentence of the Supreme Court, New York County, rendered on or about March 5, 2009, under Indictment No. 989/08, and assigning counsel therefor,

And defendant-appellant having moved for an order amending the notice of appeal and the aforementioned order to include the original judgment of said Supreme Court, New York County, rendered on or about January 14, 2009, under Indictment No. 989/08,

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 amending defendant's notice of appeal and the aforementioned order of assignment to include the original judgment rendered on or about January 14, 2009, under Indictment No. 989/08, and extending the poor person relief previously granted to cover same.

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 8, 2009.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
James M. Catterson  
Dianne T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X

In the Matter of the Application of

Thomas James,  
Petitioner-Appellant,

M-4163  
Index No. 113736/07

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

-against-

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

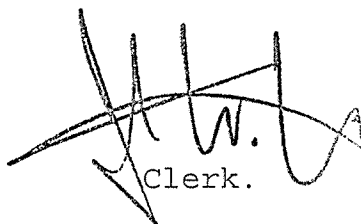
-----X

Petitioner-appellant having moved for an enlargement of time in which to perfect the appeal taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about July 11, 2008,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to on or before December 7, 2009 for the February 2010 Term.

ENTER:

  
Clerk.



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

-----X  
Robert Frank and Stephen Mayer,  
Plaintiffs-Respondents,

-against-

Wesco Distribution, Inc.,  
Defendant-Appellant.

M-3803  
Index No. 602247/09

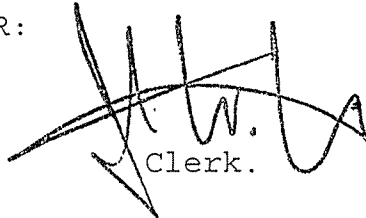
-----X

Defendant-appellant having moved in the nature of a preliminary appellate injunction pursuant to CPLR 5518 staying the order of the Supreme Court, New York County, entered on or about August 10, 2009 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.

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 8, 2009.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

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

Utokia Davoren,  
Petitioner,

M-3742  
M-3821  
Index No. 400255/08

For a Judgment Pursuant to Article  
78 of the CPLR,

-against-

New York City Housing Authority,  
Respondent.

-----X

An order of this Court having been entered on May 14, 2009 (M-1762), inter alia, conditionally dismissing an Article 78 proceeding transferred to this Court, pursuant to CPLR 7804(g) by order of the Supreme Court, New York County, entered on or about April 28, 2008 (mot. seq. no. 001), unless perfected for the October 2009 Term,

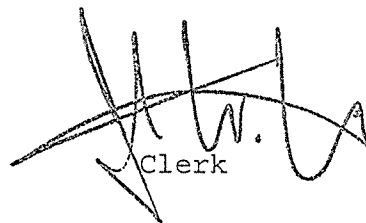
And petitioner having moved for leave to prosecute the aforesaid proceeding as a poor person, upon the original record and reproduced petitioner's brief (M-3742),

And respondent having cross-moved to dismiss the aforesaid proceeding and to vacate the stay of eviction contained in the aforesaid order of transfer (M-3821),

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

It is ordered that the motion (M-3742) is denied, the cross motion (M-3821) is granted, the stay of eviction vacated and the proceeding 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 8, 2009.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

-----X  
Jennifer Arrieta and Oscar Arrieta,  
infants by their Mother and Natural  
Guardian, Violetta Arrieta, and  
Violetta Arrieta, individually;  
and Christina Morciglio, an infant  
by her Mother and Natural Guardian,  
Beatrice Marin, and Beatrice Marin,  
Individually,  
Plaintiffs-Appellants-Respondents,

M-4038  
Index No. 8774/01

-against-

Shamas Waterproofing, Inc.,  
Defendant-Respondent-Appellant,

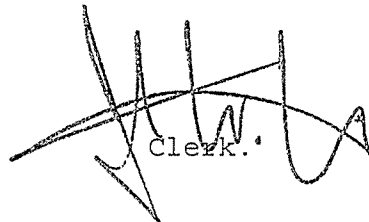
Jerome Cluster I, LLC, et al.,  
Defendants.

-----X  
Defendant-respondent-appellant having moved for an enlargement of time in which to perfect the cross appeal taken from the judgment of the Supreme Court, Bronx County, entered on or about September 29, 2008,

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

It is ordered that the motion is denied as academic, the time in which to perfect the aforesaid appeal and cross appeal having been enlarged to the January 2010 Term by the order of this Court entered on September 15, 2009 (M-3677), a copy of which is annexed hereto.

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 September 15, 2009.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

-----X  
Jennifer Arrieta and Oscar Arrieta,  
Infants by their Mother and Natural  
Guardian, Violetta Arrieta, and  
Violetta Arrieta, Individually;  
Christina Morciglio, an Infant by  
her Mother and Natural Guardian,  
Beatrice Marin, and Beatrice Marin,  
Individually,

M-3677  
Index No. 8774/01

Plaintiffs-Appellants-Respondents,

-against-

Shams Waterproofing, Inc.,

Defendant-Respondent-Appellant,

Jerome Cluster I, LLC, et al.,

Defendants.  
-----X

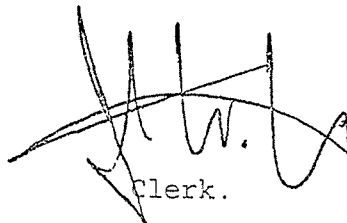
An appeal and cross appeal having been taken from the judgment of the Supreme Court, Bronx County, entered on or about September 29, 2008,

And plaintiffs-appellants-respondents having moved for an enlargement of time in which to perfect their direct 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 enlarging the time in which to perfect the appeal and cross appeal to the January 2010 Term.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
David Friedman  
John T. Buckley  
James M. Catterson  
Rolando T. Acosta, Justices.

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

-against-

M-2453  
Ind. No. 4418/04

Gary Rodriguez,  
Defendant-Appellant.

-----X

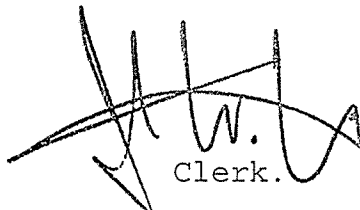
A decision and order of this Court having been entered on April 17, 2008 (Appeal No. 3421), unanimously affirming a judgment of the Supreme Court, New York County (Gregory Carro, J.), rendered on June 29, 2005,

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

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

It is ordered that said application is denied.

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on October 8, 2009.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
Eugene Nardelli  
Karla Moskowitz  
Dianne T. Renwick  
Helen E. Freedman, Justices.

-----X  
Carolyn Thomas French,  
Plaintiff-Appellant,

-against-

M-3124  
Index No. 100207/98

Alfred L. Schiavo, et al.,  
Defendants-Respondents.

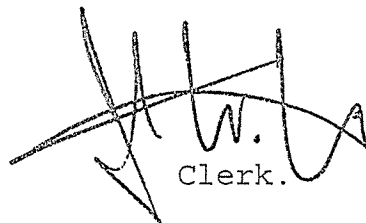
-----X

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 2, 2009 (Appeal No. 5022),

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.

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

BEFORE: Hon. Rolando T. Acosta  
Justice of the Appellate Division

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

M - 4071  
Ind. No. 6555/06

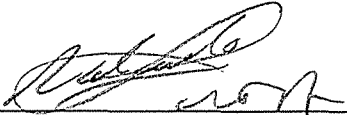
-against-

CERTIFICATE  
DENYING LEAVE

Derick Newton,

Defendant.  
-----X

I, Rolando T. Acosta, 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 August 21, 2009 is hereby denied.

  
\_\_\_\_\_  
Hon. Rolando T. Acosta  
Associate Justice

Dated: October 1, 2009  
New York, New York

ENTERED: OCT - 8 2009