

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

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

Respondent,

-against-

M-879
Ind. No. 1904/09

Edna Sheldon,

Defendant-Appellant.
-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about December 7, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated February 17, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

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

Respondent,

-against-

M-893
Ind. No. 3837/04

Cesar Mena, also known as
Cesar Felix, also known as
Cesar Felix Mena,

Defendant-Appellant.
-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about May 18, 2005,

Now, upon reading and filing the stipulation of the parties hereto, dated February 16, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Clear Channel Spectacolor Media, LLC,
Plaintiff-Respondent,

-against-

M-1028X
Index No. 602263/07

Times Square JV LLC,
Defendant-Appellant,

The City Investment Fund, L.P.,
Defendant.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about April 28, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 25, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Compañia De Inversiones De Energia
S.A.,
Plaintiff-Appellant,

-against-

M-1029X
Index No. 600245/09

AEI, formerly known as Ashmore
Energy International, Inc.,
Defendant-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 3, 2009 (mot. seq. no. 003),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 24, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Steven Carrington,
Plaintiff-Respondent,

-against-

M-1030X
Index No. 14723/07

VPL, Inc., and Yuriy Kolesnikov,
Defendants-Appellants.
-----X

An appeal having been taken from a judgment of the Supreme Court, Bronx County, entered on or about June 11, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 26, 2010, and due deliberation having been had thereon,

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

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Valarie Shirley,
Plaintiff-Respondent,

-against-

M-1032X
Index No. 21379/06

Triboro Services, Inc.,
Defendant-Appellant,

Jose Robles, Jean Marjorie and
Jean-Paul Jouliana,
Defendants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about October 14, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 26, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Jia Fu Chen,
Plaintiff-Respondent,

-against-

M-1033X
Index No. 102902/07

Gregory Kouvaras and Janny & Chris
Trans Inc.,
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about October 15, 2009 (mot. seq. no. 001),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 26, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Glorya F. Cabrera,
Plaintiff-Respondent,

-against-

M-1063X
Index No. 15792/05

Ramon F. Rodriguez and Cerda Corp.,
Defendants-Appellants.

-----X

Appeals having been taken from an order of the Supreme Court, Bronx County, entered on or about March 23, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 1, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
The Bank of East Asia (U.S.A.) N.A.,
Plaintiff-Respondent,

-against-

M-1145X
Index No. 601773/09

Miriam Chan,
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about October 6, 2009 (mot. seq. no. 001),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 5, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----x
City of New York and the Department of
Housing Preservation and Development
of the City of New York,
Plaintiffs-Respondents,

-against-

M-719
Index No. 403089/08

79 Delancy Realty Associates, LLC and
the Land and Building Thereon Known
as 77-79 Delancy Street, Block 414,
Lot 50, New York, New York, Michael
Tepler and Morris Tepler,
Defendants-Appellants.

-----x
Defendants-appellants having moved for a stay of all proceedings pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about November 25, 2009,

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

It is ordered that the motion is denied, and the interim relief granted by the order of a Justice of this Court, dated February 11, 2010, is vacated.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in in the County of New York on April 1, 2010.

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

-----X
ABN Amro Bank N.V., et al.,

Plaintiffs-Respondents,

-against-

MBIA Inc., et al.,

Defendants-Appellants.
-----X

M-1075
Index No. 601475/09

An appeal having been taken from the corrected order of the Supreme Court, New York County, entered on or about March 2, 2010,

And defendants-appellants having moved for a stay of all proceedings, 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,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David Friedman
John W. Sweeny, Jr.
Eugene Nardelli
Sheila Abdus-Salaam, Justices.

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

Respondent,

-against-

M-528
Ind. No. 297/04

Edward Bowman,

Defendant-Appellant.
-----X

An appeal having been taken to this Court from the judgment of the Supreme Court, New York County, entered on or about August 3, 2006,

And defendant-appellant having moved for leave to amend the coversheet of the pro se supplemental brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from defendant-appellant dated February 2, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Karla Moskowitz
Dianne T. Renwick
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
Jeevan P. Padiyar,

Plaintiff-Appellant,

-against-

M-540
Index No. 116296/06

Albert Einstein College of Medicine of
Yeshiva University, et al.,

Defendants-Respondents.
-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about April 22, 2009,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from counsel for defendant-appellant dated February 4, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,
David Friedman
John W. Sweeny, Jr.
Eugene Nardelli
Sheila Abdus-Salaam, Justices.

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

-against-

M-602
Ind. No. 6775/00

Alexander Castillo,
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about January 29, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is 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 ten 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 before Judge Pickholz, if any. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
In the Matter of

Jennifer R. and Angela C.,

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

M-307
Docket Nos. NN6748/08
NN6747/08

Administration for Children's
Services,
Petitioner-Respondent,

Deborah B.,
Respondent-Appellant.

Betsy Kramer, Esq., Lawyers for
Children,
Law Guardian for the Children.

-----X

Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from the orders of the Family Court, New York County, entered on or about January 15, 2010, and for assignment of counsel, a free copy of the transcript, and related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Elisa Barnes, Esq., 350 Broadway, Suite 1100, New York, New York 10013, Telephone No. (212) 693-2330, as

counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order and; (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


Clerk

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

CORRECTED ORDER - April 6, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,
David Friedman
John W. Sweeny, Jr.
Eugene Nardelli
Sheila Abdus-Salaam, Justices.

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

-against-

M-595
Ind. No. 6501/04

Nathaniel Harrison,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County (Ruth Pickholz, J.) entered on or about December 17, 2009, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, for an enlargement of time in which to perfect the appeal, and for related relief,

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

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

The Clerk of the Supreme Court shall expeditiously have made and file with the criminal court (CPL 460.70) two transcripts of the stenographic minutes of the SORA hearing and any other proceedings before Justice Pickholz as yet not transcribed. The Clerk shall furnish a copy of such transcripts to appellant's counsel, Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in in the County of New York on April 1, 2010.

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

-----X
CVL Real Estate Holding Co. LLC,

Plaintiff-Respondent,

-against-

M-741
Index No. 602868/07

Eli Weinstein,

Defendant-Appellant.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about February 4, 2010 (mot. seq. no. 007),

And defendant-appellant having moved to stay the order of contempt and arrest of said Court entered on or about April 30, 2009, 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,

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzarelli
Eugene Nardelli
Rolando T. Acosta
Dianne T. Renwick, Justices.

-----X
In the Matter of

Christopher R.; Crieg B.
and Curtis B., Jr.,

Dependent Children Under 18 Years
of Age Alleged to be Abused and/or
Neglected Pursuant to Article 10
of the Family Court Act. M-1084

Administration for Children's
Services, Docket Nos. NN12698/06
Petitioner-Respondent, NN12699/06
NN12700/06

Lecrieg B.-B.,
Respondent-Appellant.

Stephanie Rancer, Esq.,
Law Guardian for the Children.

-----X
In the Matter of a Proceeding for
Custody and/or Visitation Under
Article 6 of the Family Court Act. Docket Nos. V13766/06
V13767/06
V13768/06

Curtis B., Sr.,
Petitioner-Respondent,

-against-

Lecrieg B.-B.,
Respondent-Appellant,

Administration for Children's
Services,
Respondent.

-----X

An appeal having been taken from the orders of the Family Court, New York County, both entered on or about January 15, 2009,

And petitioner Administration for Children's Services having moved for leave to adjourn the appeals until such time as petitioner has been properly served, or for alternative relief,

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

Sua sponte, it is ordered that the brief filed as an "Article 78 proceeding" is deemed an appellant's brief and the appeal is stricken from the calendar, without prejudice to reinstatement upon presentation of proof by appellant of proper service of her brief upon Stephanie Rancer, Esq., 789 Rugby Road, Brooklyn, New York, 11230 and 305 Broadway, Suite 601, New York, New York 10007 law guardian for the children Creig A. B. And Curtis B., Jr., within 30 days of the date hereof, for the September 2010 Term.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzairelli
Eugene Nardelli
Rolando T. Acosta
Dianne T. Renwick, Justices.

-----X
Benjamin L. Anderson, a Shareholder of
Livonia, Avon & Lakeville Railroad
Corporation,
Plaintiff-Appellant,

M-1051
Action No. 1
Index No. 600126/09

-against-

Carl P. Belke, et al.,
Defendants-Respondents.

- - - - -
Benjamin L. Anderson, a Shareholder of
Livonia, Avon & Lakeville Railroad
Corporation,
Plaintiff-Appellant,

Action No. 2
Index No. 602210/08

-against-

Eugene H. Blabey II, et al.,
Defendants-Respondents.

-----X

An appeal having been taken (under Index No. 600126/09) from three orders of the Supreme Court, New York County, entered on or about July 24, 2009, July 27, 2009 and July 24, 2009, respectively, (mot. seq. nos. 001, 002 and 003); and an appeal having been taken (under Index No. 602210/08) from three orders of the Supreme Court, New York County, all entered on or about July 27, 2009 (mot. seq. nos. 001, 002 and 003), and said appeals having been perfected,

And the respective respondents having moved for an order dismissing plaintiff's appeals or for alternative relief,

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

Ordered that so much of the motion which seeks to dismiss plaintiff's appeals is denied, without prejudice to defendants-respondents submitting a supplemental record on appeal in conjunction with their filing a respondents' brief on or before April 21, 2010 for the June 2010 Term, to which Term the appeals are adjourned. So much of the motion which seeks to strike pages 348 to 358 inclusive of plaintiff's appendix is granted. Plaintiff is directed to immediately remove said pages from all copies of plaintiff's appendix filed with this Court and to correct the table of contents thereof to reflect the deletion. The motion is otherwise denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

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

-against-

M-648
Ind. Nos. 4817/02
7799/02

Lionel Pitman,
Defendant-Appellant.
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from an order of **resentence** of the Supreme Court, New York County, rendered on or about November 20, 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 April 1, 2010.

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

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

-against-

M-382
Ind. No. 9046/91

Eugene Bush, also known as Andrew
Simms,
Defendant.

-----X

Defendant having moved for leave to appeal to this Court from an order of the Supreme Court, New York County, purportedly entered on or about November 6, 2009, for poor person relief and the assignment of counsel,

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

Ordered that the motion is denied, with leave to renew upon submission of a copy of the aforesaid order from which defendant seeks to appeal.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----x
Lynn Lucka Bergman,
Plaintiff-Respondent,

-against-

Franklin Bergman,
Defendant-Appellant.
-----x

M-681
Index No. 350257/02

Appeals having been taken to this Court by defendant-appellant from orders of the Supreme Court, New York County, entered on or about July 29, 2009 and November 10, 2009, respectively,

And defendant-appellant having moved for consolidation of the aforesaid appeals,

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 appellant to prosecute the appeals upon 10 copies of one record and one set of appellant's points covering the appeals and enlarging the time in which to perfect the consolidated appeals to the September 2010 Term.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

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

-against-

M-639
Ind. No. 3524/05

Reginald Swinton,
Defendant-Appellant.

-----X

Defendant-appellant having moved for leave to file a pro se supplemental brief in connection with an appeal from a judgment of the Supreme Court, New York County, rendered on or about May 24, 2007, for a copy of the trial transcripts and for an enlargement of time in which to file said pro se supplemental brief,

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

It is ordered that the motion is granted to the extent of directing defendant to serve and file 10 copies of his pro se supplemental brief on or before July 12, 2010 for the September 2010 Term, to which Term the appeal is adjourned. The Clerk of the Court is directed to forward to the Warden at the State correctional facility wherein defendant is incarcerated a transcript of the minutes relating to defendant's appeal, said transcript to be made available to appellant and returned by appellant to this Court when submitting the pro se supplemental brief hereto. The appeal will not be heard unless and until all material furnished to appellant has been returned.

ENTER:

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

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

-against-

M-724
Ind. No. 3080/04

Ralph Hall,
Defendant-Appellant.

-----X

Defendant-appellant having moved for leave to file six copies of a pro se supplemental brief in connection with an appeal from a judgment of the Supreme Court, New York County, rendered on or about October 7, 2005,

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 said copies of his pro se supplemental brief timely filed for the September 2010 Term, to which Term the appeal is adjourned.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Carol Salter,
Plaintiff-Respondent,

-against-

M-489
Index No. 103934/08

Sears, Roebuck and Co., Icon Health
Fitness, Inc., General Transportation
Services, Inc., 3PD, Inc. and Angel
Vizcaino,
Defendants-Appellants.
-----X

Defendants Sears, Roebuck and Co. and Icon Health Fitness, Inc., having moved for a stay of all proceedings pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about January 8, 2010,

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

It is ordered that the motion is granted on condition that the appeal is perfected on or before July 12, 2010 for the September 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided that respondent serves a copy of this order upon appellants within 10 days after the date of entry hereof.

ENTER:


- Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Victoria Kremen, et al.,

Plaintiffs-Respondents,

-against-

M-599

Index No. 101739/06

Benedict P. Morelli & Associates PC,
also known as Morelli Ratner PC, et al.,

Defendants-Appellants.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 26, 2010 (mot. seq. no. 009),

And defendants-appellants having moved to stay enforcement of a monetary sanction contained in said order, 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,

It is ordered that the motion is granted on condition that the appeal is perfected on or before July 12, 2010 for the September 2010 Term. Upon failure to so perfect, this stay of enforcement shall expire.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----x
In Re: Application of James Thomas,
Petitioner-Appellant,

to conduct pre-action disclosure of
files, records and documents maintained
in the possession, custody and control
of

M-1086
Index No. 101223/09

MasterCard Advisors, LLC. and
MasterCard International Incorporated,
Respondents.
-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about March 20, 2009 (mot. seq. no. 001), and said appeal having been perfected,

And respondents having moved for leave to submit a supplemental record on appeal to include petitioner's memorandum of law in support of the order for pre-action discovery,

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 supplemental record on appeal submitted with the moving papers is deemed filed.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----x

Luis Ribiero,
Plaintiff-Respondent/Respondent, M-1074
M-1286

-against-

2013 Amsterdam Avenue Housing Association, Index No. 105696/04
Defendant-Respondent/Appellant,

-and-

Century Elevator Maintenance Corporation,
Defendant-Appellant/Respondent.

2013 Amsterdam Avenue Housing Association,
Third-Party Plaintiff-Appellant,

-against-

Index No. 590868/04

Sigma Maintenance & Restoration Corp.,
doing business as New Image General Contractors,
Third-Party Defendant-Respondent.

Sigma Maintenance & Restoration Corp.,
doing business as New Image General Contractors,
Second Third-Party Plaintiff-Respondent,

-against-

Century Elevator Corp.,
Second Third-Party Defendant-Appellant.

-----x

Separate appeals having been taken to this Court from the order of the Supreme Court, New York County, entered on or about October 28, 2009 (mot. seq. no. 006),

And appellants having moved and cross-moved to stay trial pending hearing and determination of the aforesaid appeals,

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

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----x
Robert J.A. Zito,
Plaintiff-Respondent,

-against-

Fischbein Badillo Wagner Harding, M-1325
et al., Index No. 602308/04
Defendants.

Nimkoff Rosenfeld & Schechter, LLP,
Non-Party Appellant.

-----x
Robert J.A. Zito,
Plaintiff-Respondent,

Index No. 14271/08

-against-

Nimkoff Rosenfeld & Schechter, LLP,
Defendant-Appellant.

-----x

Nimkoff Rosenfeld & Schechter, LLP, having taken separate appeals to this Court from the orders of the Supreme Court, New York County, entered on or about July 6, 2009 (mot. seq. nos. 055, 056, 057) and on or about November 23, 2009 (mot. seq. nos. 059, 060), respectively,

And appellant having moved for a stay of discovery pending hearing and determination of the aforesaid appeals,

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

It is ordered that the motion is denied.

ENTER: 
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X
Kent M. Swig,
Petitioner-Appellant,

-against-

M-1183
Index No. 602942/09

Properties Asset Management Services,
LLC,
Respondent-Respondent.

- - - - -
(And another action)
-----X

An appeal having been taken to this Court from the judgment of the Supreme Court, New York County, entered on or about March 1, 2010 (mot. seq. no. 001),

And petitioner-appellant having moved for a stay of enforcement of the judgment, other than to the distribution of funds currently held in escrow and subject of the above-captioned petitions, pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, including the correspondence dated March 5, 2010 from appellant's counsel, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

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

-----X

Morgan Stanley,
Plaintiff-Respondent,

-against-

Discover Financial Services,
Defendant-Appellant.

M-525
M-908
Index No. 603017/08

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 9, 2009 (mot. seq. no. 002),

And plaintiff-respondent having moved for an order enlarging the record on appeal, and for other relief (M-525),

And the parties having moved to withdraw the appeal (M-908),

Now, upon reading and filing the papers with respect to the motion, including the stipulation of the parties hereto, dated February 11, 2010, and due deliberation having been had thereon,

It is ordered that the motion to enlarge the record on appeal and the 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 April 1, 2010.

Present: Hon. David Friedman, Justice Presiding,
James M. Catterson
James M. McGuire
Rolando T. Acosta
Dianne T. Renwick, Justices.

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

-against-

M-715
Ind. No. 1279/04

Everton Hurst,
Defendant-Appellant.
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about February 3, 2010, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record, 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 Sec 722 of the County Law. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

Present: Hon. David Friedman, Justice Presiding,
James M. Catterson
James M. McGuire
Rolando T. Acosta
Dianne T. Renwick, Justices.

-----X
Benjamin Cunningham,

Plaintiff-Appellant,

-against-

David Newman, M.D., et al.,

Defendants-Respondents.
-----X

M-756
Index No. 401014/09

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

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

It is ordered that the motion is denied, with leave to renew upon an affidavit explaining appellant's financial affairs with respect to the ownership of real property and copies of plaintiff's 2007 and 2008 Federal tax returns.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

Present: Hon. David Friedman, Justice Presiding,
James M. Catterson
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Felipe Concepcion,
Petitioner-Appellant,

For a Judgment Pursuant to Article 78 M-688
of the Civil Practice Law and Rules, Index. No. 250611/09

-against-

Hon. Robert T. Johnson, District
Attorney, Bronx County,
Respondent-Respondent.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about August 17, 2009, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 1, 2010.

Present: Hon. David Friedman, Justice Presiding,
James M. Catterson
Rolando T. Acosta
Leland G. DeGrasse
Sheila Abdus-Salaam, Justices.

-----X
425 Third Avenue Realty Co.,
Plaintiff-Respondent,

-against-

M-809
Index No. 400841/08

Scott Greenfield and Justin Clair,
Defendants-Appellants.
-----X

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about September 29, 2008 (mot. seq. no. 001) and October 23, 2008, respectively, and said appeals having been consolidated by the order of this Court, entered on July 28, 2009 (M-3024),

And an order of this Court having been entered on February 4, 2010 (M-5749/M-78), inter alia, deeming defendants' appeal withdrawn, and directing appellants to file a supplemental record on appeal with respect to the final judgment subsequently entered on or about December 4, 2009 on or before February 22, 2010 for the May 2010 Term,

And defendants-appellants having moved for modification and/or clarification of the aforesaid order of this Court entered on February 4, 2010, and for other relief (M-5749/M-78),

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 deleting the provision that defendants are required to submit a brief and supplemental record on appeal on or before February 22, 2010 for the May 2010 Term, and replacing it with the provision that the supplemental record on appeal and brief are to be filed on or before July 12, 2010 for the September 2010 Term. The motion is otherwise denied.

ENTER:


Clerk.

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

BEFORE: Hon. JAMES M. MCGUIRE
Justice of the Appellate Division

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

Respondent,

M- 1085
Ind. No. 40165C/2005

-against-

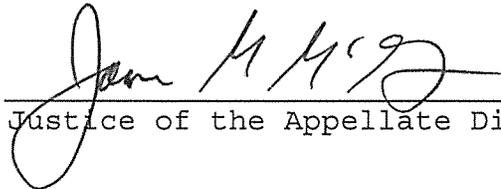
CERTIFICATE
GRANTING LEAVE TO APPEAL
TO THE COURT OF APPEALS

FREDDY RODRIGUEZ,
Defendant-Appellant.

-----x

I, JAMES M. MCGUIRE, a Justice of the Appellate Division, Supreme Court, First Department, do hereby certify that in the record and proceedings herein* questions of law are involved which ought to be reviewed by the Court of Appeals and pursuant to CPL 460.20, it is

ORDERED that permission hereby is granted to the above-named defendant to appeal to the Court of Appeals.


Justice of the Appellate Division

Dated: March 25, 2010
New York, New York

ENTERED: APR 01 2010

*Description of Order:

Judgment, Supreme Court, Bronx County, entered on June 30, 2008. App. Div., First Dept., Appeal No. 1058, affirmed judgment on February 16, 2010.

Notice: Within 10 days from the issuance of this certificate, a preliminary appeal statement must be filed with the Clerk of the Court of Appeals pursuant to Rule 500.9 of the Court of Appeals Rules.

PM ORDERS

ENTERED

MARCH 30, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 30, 2010.

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

-----X

Robert Vermylen, as Executor of the
Estate of Christopher Ursprung and
Diane Ursprung,
Plaintiffs-Respondents,

M-936

Index No. 601254/07

-against-

Genworth Life Insurance Company of
New York, et al.,
Defendants,

Donna Ursprung,
Defendant-Appellant.

-----X

An appeal having been taken by defendant Donna Ursprung from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about February 17, 2010,

And defendant-appellant Donna Ursprung having moved to stay so much of the aforesaid order and judgment (one paper) of the Supreme Court, New York County, entered on or about February 17, 2010 directing release and/or payment of certain proceeds by defendant Genworth Life Insurance Company of New York pending hearing and determination of the aforesaid appeal, for leave to enlarge the record on appeal and for related relief,

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

Ordered that the motion for a stay of release and/or payment of certain proceeds by defendant Genworth Life Insurance is granted, and it is further

Ordered that the respective parties' 2008 stipulation notwithstanding, defendant Genworth Life Insurance Company of New York is directed to invalidate a check dated October 7, 2009, to the order of counsel for plaintiffs and counsel for defendant-appellant jointly, and to issue a new check for the same amount solely to the order of counsel for plaintiffs, Irwin, Lewin, Cohn & Lewin, PC, who are directed to deposit said check immediately in an interest-bearing escrow account, pending decision on the appeal. Counsel for plaintiffs is directed to serve a copy of this Court's order with notice of entry upon all parties within 10 days of the date of entry hereof.

ENTER:

A handwritten signature in black ink, reading "David Apokony". The signature is written in a cursive style and is positioned to the right of the word "ENTER:". A vertical line is drawn to the right of the signature.

Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 30, 2010.

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

-----x
Kelly Anne Breen-Burns,

Plaintiff-Respondent,

-against-

M-854

Index No. 18623/06

Scarsdale Woods Homeowners' Association,
Inc., et al.,

Defendants-Appellants.
-----x

Defendants-appellants having moved for a stay of trial pending hearing and determination of the appeal from the order of the Supreme Court, Bronx County, entered on or about November 30, 2009, and said appeal having been perfected,

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 March 30, 2010.

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

-----x
Jessica Hernandez,

Plaintiff-Respondent,

-against-

M-1445
Index No. 3072/07

William Hernandez,

Defendant-Appellant.
-----x

An appeal having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about November 5, 2008, and said appeal having been perfected,

And plaintiff-respondent having moved for an enlargement of time to file a respondent's brief, and for a stay of trial proceedings pending hearing and determination of the aforesaid appeal, and for related relief,

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

It is ordered that the motion is granted and the appeal is adjourned to the June 2010 Term. Plaintiff-respondent is directed to file a responding brief on or before April 28, 2010, and defendant-appellant's reply brief, if any, is due on or before May 7, 2010 for said Term. The motion is otherwise denied.

ENTER:



Clerk