

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 6, 2012.

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

-----X  
Marques Fernandez, an infant, by his  
mother and natural guardian,  
Ruth De Los Santos,  
Plaintiff-Respondent,

-against-

M-399X  
Index No. 111669/07

Joel Moskowitz, M.D.,  
Defendant-Appellant,

-and-

NYU Medical Center, sued herein as  
New York University Medical Center,  
Defendant-Appellant.

-----X

Separate appeals having been taken from the order of the Supreme Court, New York County, entered on or about April 26, 2011 (mot. seq. no. 004),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" January 26, 2012, and due deliberation having been had thereon,

It is ordered that the appeals are withdrawn in accordance with the aforesaid stipulation.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 March 6, 2012.

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

-----X  
Samuel Otchere,

Plaintiff-Respondent,

-against-

Hector Pena,

Defendant-Appellant.  
-----X

M-551X  
Index No. 308589/08

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about February 20, 2011,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 3, 2012, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 March 6, 2012.

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

-----X  
New York Commercial Bank,

Plaintiff-Respondent,

-against-

Hatton Trading & Sons, Inc.,

Defendant-Appellant.  
-----X

M-629X

Index No. 650578/10

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 8, 2011,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 8, 2012, 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 March 6, 2012.

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,

Appellant,

-against-

M-714  
Ind. No. 5569/10

Kelly Wright,

Defendant-Respondent.

-----X

The People having appealed to this Court from an order of the Supreme Court, New York County, entered on or about June 22, 2011,

Now, upon reading and filing the stipulation of the parties hereto dated February 14, 2012, 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 March 6, 2012.

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

-----X

Bernard Stokes,  
Plaintiff-Respondent,

-against-

**M-767**

Index No. 18964/07

Leslie Middleton, Service Inc.  
and Alieu S. Sarr,  
Defendants-Respondents,

-and-

Amadou B. Diallo and Mamadou M.  
Balde,  
Defendants-Appellants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about January 31, 2011,

Now, upon reading and filing the stipulation of the parties hereto, filed February 17, 2012, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the January 2012 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 March 6, 2012.

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

-----X  
Damon Horton,

Plaintiff-Respondent-Appellant,

-against-

1560/80 Pelham Parkway Associates, LLC.,

Defendant-Appellant-Respondent.  
-----X

M-654  
Index No. 14959/06

An appeal and cross appeal having been taken from the order and judgment (one paper) of the Supreme Court, Bronx County, entered on or about August 16, 2011,

Now, upon reading and filing the stipulation of the parties hereto, dated February 7, 2012, and due deliberation having been had thereon,

It is ordered that the appeal and cross appeal, previously perfected for the December 2011 Term, is withdrawn in accordance with the aforesaid stipulation.

ENTER:



CLERK





Steven 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



Steven 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



Steven 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



Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:



CLERK



Steven 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



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



Steven 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



Steven 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



Steven 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



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



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



Steven 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



Steven 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



Steven 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



Steven 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



Steven 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



Steven 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 March 6, 2012.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Dianne T. Renwick  
Rosalyn H. Richter, Justices.

-----x  
Madeline Yvonne Tims, Individually,  
and Madeline Yvonne Tims as the Court  
Appointed Personal Representative of  
the Estate of Pastor Zachery Tims, Jr.  
(Deceased),  
Plaintiff-Appellant,

-against-

M-136  
Index No. 111446/11

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

-----x

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 21, 2011,

And plaintiff-appellant having moved for relief in the nature of a preliminary injunction to stay respondent from releasing certain information concerning the cause and manner of death of the aforesaid deceased 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 on condition the appeal is perfected on or before July 9, 2012 for the September 2012 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 March 6, 2012.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
John W. Sweeny, Jr.  
Karla Moskowitz  
Rolando T. Acosta  
Sallie Manzanet-Daniels, Justices.

-----X

In re The State of New York,

Petitioner-Respondent,

-against-

M-32  
Index No. 403501/10

Harold Nelson,

Respondent-Appellant.

-----X

Respondent-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on November 3, 2011 (Appeal No. 4932),

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 March 6, 2012.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz  
Leland G. DeGrasse, Justices.

-----X  
Frank Miraglia,  
Petitioner-Appellant,

-against-

M-152  
Index No. 260631/10

State Insurance Fund, 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, Bronx County, entered on or about April 8, 2011,

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 September 2012 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 March 6, 2012.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz  
Leland G. DeGrasse, Justices.

-----X  
Ana Rodriguez, as Parent and  
Natural Guardian of Abraham  
Garcia, an Infant and Ana  
Rodriguez, Individually,  
Plaintiffs-Appellants,

-against-

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

M-391  
Index No. 17320/05

-----X

Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about April 8, 2011,

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 September 2012 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 March 6, 2012.

PRESENT: Hon. Peter Tom, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Karla Moskowitz  
Leland G. DeGrasse, Justices.

-----x

Michael Jaliman and Estate of  
Jaliman,  
Plaintiffs-Appellants,

-against-

M-241  
Index No. 123882/93

D.H. Blair & Co., Inc., et al.,  
Defendants-Respondents.

-----x

Appeals having been taken to this Court by plaintiffs-appellants from the order of the Supreme Court New York County, entered on or about February 17, 2011 (mot. seq. no. 014) and an order of the same Court and Justice entered September 19, 2011 (mot. seq. no. 015), respectively,

And plaintiffs-appellants 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 appellants to prosecute the appeals upon 9 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 2012 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 March 6, 2012.

Present - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Leland G. DeGrasse  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
Ike Essilfie-Obeng, an Infant by  
his Mother and Natural Guardian,  
Lydia Davies,  
Plaintiff-Appellant,

-against-

M-226  
Index No. 8967/04

Godfried R. Ahyia, et al.,  
Defendants,

1075 Concourse Tenants Corporation,  
et al.,  
Defendants-Respondents.

-----X

Defendants-respondents All Area Property Management Co.  
and Tasos Magoulas having moved for clarification of the decision  
and order of this Court entered on April 7, 2011 (Appeal No.  
4741),

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 decision  
and order of this Court entered on April 7, 2011 (Appeal No.  
4741) is recalled and vacated and a new decision and order  
substituted therefor. (See Appeal No. 4741, decided  
simultaneously herewith.)

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 6, 2011.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
Rolando T. Acosta  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
Firoozeh Farahmand,  
Plaintiff-Appellant,

-against-

M-482  
Index No. 117787/09

Dalhousie University,  
Defendant-Respondent.

-----X

Appeals having been taken from the order of the Supreme Court, New York County, entered on or about January 4, 2011 and September 26, 2011, respectively, and said appeals having been perfected,

And defendant-respondent having moved for leave to file a supplemental record filed with the motion in this Court,

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

Ordered that the motion is granted, 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 March 6, 2012.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
Rolando T. Acosta  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X

The Stillwater Asset Backed  
Fund, LP,  
Plaintiff-Respondent,

-against-

M-342  
Index No. 600464/09

Palace 43 LLC, Crestview Capital LLC,  
107 East 60th Street Associates, LLC,  
177 Concord Realty, LLC, Nissan Perla  
and 123-11 Rockaway, LLC,  
Defendants-Appellants.

-----X

Appeals having been taken to his Court from the order of the Supreme Court, New York County, entered on or about November 15, 2011, and from an amended order of the same Court and Justice entered on or about January 20, 2012 (mot. seq. nos. 003, 004, 005), respectively,

And defendants-appellants having moved for a stay of all proceedings to enforce the orders pending hearing and determination of the appeals 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 granted on condition the appeals are perfected on or before July 9, 2012 for the September 2012 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 March 6, 2012.

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

X

Lenders Capital LLC,  
Plaintiff Respondent,

against

**M-550**

Index No. 380425/08

Ranu Realty Corp., Azizur Rahman,  
New York State Department of  
Taxation & Finance, City of New York,  
Jane Doe and John Doe 1 through 9,  
Defendants Respondents,

Viktoriya Zavelina,  
Intervenor Appellant.

X

An appeal having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about April 6, 2011,

And an order of this Court having been entered on August 11, 2011 (M 2733), granting intervenor appellant a stay pending hearing and determination of the aforesaid appeal,

And intervenor appellant having moved for an order vacating the aforesaid stay afforded to intervenor appellant by the order of this Court entered on August 11, 2011 (M 2733),

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

Ordered that the motion is granted, and the aforesaid stay granted by the order of this Court entered August 11, 2011 (M 2733) is hereby vacated.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 6, 2012.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
Karla Moskowitz  
Rolando T. Acosta  
Dianne T. Renwick  
Leland G. DeGrasse, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-5408

Ind. No. 6516/07

Kevin Combs,

Defendant-Appellant.

-----X

Defendant-appellant having moved for clarification of the decision and order of this Court entered on October 18, 2011 (Appeal No. 5730),

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 decision and order of this Court entered on October 18, 2011 (Appeal No. 5730) is recalled and vacated and a new decision and order substituted therefor. (See Appeal No. 5730, decided simultaneously herewith.)

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 6, 2012.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
James M. Catterson  
Dianne T. Renwick  
Sheila Abdus-Salaam  
Sallie Manzanet-Daniels, Justices.

-----X  
The People of the State of New York  
ex rel. Hilary Best,  
Petitioner,

-against-

M-264  
Docket No. 61966/11

Thomas Hall, Warden, Manhattan  
Detention Center,  
Respondent(s).

-----X

The above-named petitioner having moved for, inter alia, a writ of habeas corpus to be issued from this Court, and other relief,

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

It is ordered that the application for the writ is hereby granted, and

It is further ordered that the matter is transferred to the Ex Parte Office of the Supreme Court at 60 Centre Street, New York, New York 10007 for the issuance of said writ and service by mail upon the respective parties.

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 March 6, 2012.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
Diane T. Renwick  
Leland G. DeGrasse  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

-----X  
Rita V. Dunne,

Plaintiff,

-against-

M-326

Index No. 570190/08

SD & A Teleservices Inc.,  
Defendant.

-----X

An order of the Appellate Term having been entered in the office of the Clerk of the Supreme Court, New York County, on or about September 11, 2009, denying plaintiff's motion for reargument of the order of the Civil Court, New York County, entered on or about June 29, 2007 and for leave to appeal to this Court,

And an order of this Court having been entered May 24, 2011 (M-1399), denying plaintiff leave to prosecute the aforesaid purported appeal, leave to appeal to this Court as a poor person, leave to have the purported appeal heard on the original record and upon a reproduced appellant's brief, and related relief,

And plaintiff having renewed her motion for the aforesaid 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 March 6, 2012.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

-----X  
Litman, Asche & Gioiella,  
Plaintiff-Respondent,

-against-

M-297  
Index No. 111535/10

Carl Hasting,  
Defendant-Appellant.

-----X

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about April 6, 2011,

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 September 2012 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 March 6, 2012.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter, Justices.

-----X  
Richard Gordon,  
Plaintiff,

-against-

M-287  
Index No. 251501/11

Wells Fargo Bank of Minnesota, NA.,  
et al.,  
Defendants.

-----X

An order of this Court having been entered November 17, 2011 (M-5266), denying plaintiff's motion for relief pursuant to CPLR 5704(a),

And plaintiff having moved for reconsideration of the aforesaid order of this Court (M-5266), 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, the interim relief granted by an order of a Justice of this Court dated January 19, 2012, is hereby vacated.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 6, 2012.

Present: Hon. Richard T. Andrias, Justice Presiding,  
John W. Sweeny, Jr.  
James M. Catterson  
Leland G. DeGrasse, Justices.

-----X  
In re Estate of William Gottlieb,  
Deceased.

Irving Bender, et al., **M-4053**  
Petitioners-Respondents, **M-4253**  
Index No. 4037/99

Cheryl I. Dier, et al.,  
Objectors-Appellants.

- - - - -  
In re Estate of Mollie Bender,  
Deceased,

Irving Bender, et al., Index No. 2497/07  
Petitioners-Respondents,

Michael Corbett,  
Objector-Appellant.  
-----X

An order of this Court having been entered November 4, 2010 (M-3452/M-3156), denying objector-appellant Cheryl I. Dier's separate motions for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on May 18, 2010 (Appeal Nos. 1519-23),

And orders of this Court having been entered February 17, 2011 (M-6288), and on June 23, 2011 (M-1211), denying objector-appellant Cheryl I. Dier's motions for reconsideration and rescission of all prior orders of this Court,

And objector-appellant Cheryl I. Dier having again moved for rescission of all prior orders of this Court (M-4053),

And petitioners-respondents having cross-moved for an order imposing sanctions upon objector-appellant Cheryl I. Dier for frivolous litigation, and enjoining objector-appellant from bringing any further motions before this Court (M-4253),

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 objector-appellant's motion is denied in its entirety (M-4053), and it is further

Ordered that the petitioners-respondents cross motion (M-4253) is granted to the extent of imposing sanctions on the objector-appellant Cheryl I. Dier as follows:

Pursuant to 22 NYCRR 130-1.1(a) a court may impose financial sanctions upon a party or an attorney who engages in "frivolous conduct." Under Part 130 of the Rules of this Court, frivolous appellate litigation may be found to exist where the appellate arguments raised are completely without merit in law or fact, where the appeal is undertaken primarily to delay or prolong the litigation or to harass or maliciously injure another, or where the party or attorney asserts material factual statements that are false (§ 130-1.1[c] [additional citations omitted])" (*Yenom Corp. v 155 Wooster St.*, 33 AD3d 67, 70 [2006]). In making the instant motion, Ms. Dier has continued to press the same patently meritless arguments that she has previously made and she has failed to make even a prima facie showing of any reasonable basis for this Court to vacate its prior orders. Ms. Dier has engaged in a course of conduct that is calculated to harass and annoy petitioners. At the same time, she has wasted the time and resources of this Court. As such, her motion is frivolous and meritless within the meaning of 22 NYCRR 130-1.1(c)(1) and constitutes an abuse of the judicial process supporting the imposition of sanctions (see *Maroulis v 64<sup>th</sup> St.-Third Ave. Assocs.*, 77 NY2d 831 [1991]; *Bell v New York Higher Educ. Assistance Corp.*, 76 NY2d 930 [1990]).

We find that a \$1,500.00 fine is sufficient to restrain objector-appellant Cheryl I. Dier from engaging in further frivolous motion practice in connection with this litigation. We reach this conclusion after taking into account the need to deter Ms. Dier from engaging in further frivolous motion practice in connection with this appeal; Ms. Dier's pro se status; and the absence of any evidence as to the actual expense to petitioners in responding to Ms. Dier's motion (see *Lichter v State of New York*, 198 AD2d 687, 688 [1993]).

Therefore we hereby impose sanctions upon objector-appellant Cheryl I. Dier for frivolous litigation in the amount of \$1,500.00 and direct Ms. Dier to immediately deposit said amount with the Clerk of the Supreme Court, New York County, for transmittal to the State Commissioner of Taxation and Finance (see *Nowak v Walden*, 187 AD2d 418 [1992]), and it is further

Ordered that objector-appellant Cheryl I. Dier is hereby prohibited from filing any further motions in this Court with respect to the above said litigation without prior permission of the Clerk of this Court.

ENTER:



CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 6, 2012.

Present: Hon. David B. Saxe, Justice Presiding,  
John W. Sweeny, Jr.  
James M. Catterson  
Helen E. Freedman  
Sallie Manzanet Daniels, Justices.

X

The People of the State of New York,  
Respondent,

against **M-2584**  
Ind. No. 1360/09

Vaselios Giamagas,  
Defendant Appellant.

X

An order of this Court having been entered on October 28, (M 4377), granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about February 25, 2010, and assigning counsel therefor,

And assigned counsel, Steven Banks, Esq., having moved for an order to be relieved as counsel for defendant and to substitute other counsel to prosecute defendant's appeal,

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

It is ordered that the motion is granted to the extent of striking the designation of assigned counsel Steven Banks, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212 402 4100, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 6, 2012.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X

In the Matter of

Khaliyah Vjelytt W.-D.,

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

**M-247**  
Docket No. NN32035/10

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

Jasmine W.,  
Respondent-Appellant.

-----  
Andrew Rossmer, Esq.,  
Attorney for the Child.

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of fact Finding of the Family Court, Bronx County, entered on or about October 25, 2011, and from the Order of Disposition of said Family Court entered on or about November 18, 2011, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Lewis S. Calderon, Esq.,

153-10 Jamaica Avenue, Suite 201, Jamaica, NY 11432, Telephone No. (718) 883-1560, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> **within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk;** (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. **The Clerk of the Family Court shall transfer the record upon receipt of this order;** and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, **within 60 days** of receipt of the transcripts. **Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.**

ENTER:



CLERK

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 6, 2012.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Leland G. DeGrasse  
Nelson S. Román, Justices.

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

-----  
Tanisha R., **M-251**  
Petitioner-Respondent, Docket No. U-12707-01/09F

-against-

Earl M.,  
Respondent-Appellant.  
-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about October 4, 2011, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of  
(1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Kenneth M. Tucillo, Esq., P.O. Box 576, Hastings on Hudson, NY 10706, Telephone No. (914) 439-4843, as counsel for purposes of prosecuting the appeal;  
(2) directing the Clerk of said Family Court to have transcribed

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

ENTER:



CLERK

---

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 6, 2012.

PRESENT: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Leland G. DeGrasse, Justices.

-----X  
Paul Alexander,

Plaintiff-Appellant,

-against-

M-172  
Index No. 402831/08

Raymond Kelly, NYC Police Department,  
et al.,

Defendants-Respondents.  
-----X

Plaintiff-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about August 17, 2011, and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for other relief,

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

It is ordered that said 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 March 6, 2012.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
In the Matter of

Tanya J.,

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

**M-277**  
Docket No. NN5704/11

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

Anton B.,  
Respondent-Appellant.

- - - - -  
Anne L. O'Brien, Esq.,  
Attorney for the Child.

-----X

Respondent-appellant brother having moved for leave to prosecute, as a poor person, the purported appeal from the order of the Family Court, Bronx County, entered on or about November 18, 2011, 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 denied, the purported appeal having been taken from a non-appealable order entered upon default (CPLR 5511).

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 6, 2012.

PRESENT: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
Estelle A. Carr, Individually and as  
Assignee of Charles Casper and Keith  
Whitten and Estate of Royce K. Hoffman,  
Plaintiffs-Appellants,

-against-

M-146  
Index No.117815/97

Rose A. Caputo, et al.,  
Defendants-Respondents.  
-----X

Appeals having been taken to this Court from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about November 17, 2010,

And an order of this Court entered on December 27, 2011 (M-5053) having consolidated the aforesaid appeals and enlarged the time in which to perfect same to the May 2012 Term,

And plaintiffs-appellants having moved for an enlargement of time in which to perfect the consolidated appeals, 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 enlarging the time in which to perfect the consolidated appeals to on or before August 6, 2012 for the October 2012 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 March 6, 2012.

PRESENT: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
Stephane Cosman Connery and  
Micheline Connery,  
Plaintiffs-Appellants,

-against-

M-275  
Index No. 401336/05

Burton S. Sultan,  
Defendant-Respondent.

-----X

Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about April 21, 2011,

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 September 2012 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 March 6, 2012.

PRESENT: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Leland G. DeGrasse, Justices.

-----X

The City of New York,

Plaintiff-Respondent,

-against-

M-216

Index No. 401763/10

Transportazumah LLC,

Defendant-Appellant.

-----X

Defendant-appellant having moved for an order enlarging the time in which to perfect the appeals from the order and judgment of the Supreme Court, New York County, entered on or about April 13, 2011 (mot. seq. no. 003), and from the order of said Court entered on or about October 4, 2011 (mot. seq. no. 007), respectively,

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 appeals, which are, sua sponte, consolidated, to on or before July 9, 2012 for the September 2012 Term. Appellants are permitted to prosecute the appeals upon 9 copies of one record and one copy of appellant's points covering the aforesaid appeals.

ENTER:



CLERK

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

BEFORE: Hon. KARLA MOSKOWITZ  
Justice of the Appellate Division

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

M-363  
Ind. No. 13688/1991

-against-

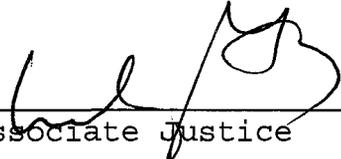
CERTIFICATE  
DENYING LEAVE

Chauncy Ramos

Defendant.

-----X

I, Karla Moskowitz, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application deemed 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 that 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 December 1, 2011, is hereby denied.

  
\_\_\_\_\_  
Associate Justice

Dated: \_\_\_\_\_, 2012  
New York, New York

ENTERED: **MAR 06 2012**

PM ORDERS  
ENTERED ON  
MARCH 6, 2012

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 6, 2012.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
James M. Catterson  
Karla Moskowitz  
Nelson S. Román, Justices.

-----x  
Mariellen Lane B.,

Plaintiff-Respondent,

-against-

Peter William B.,

Defendant-Appellant.  
-----x

M-281  
Index No. 306952/09

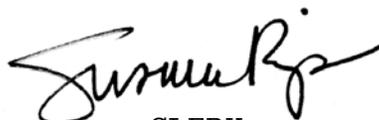
An appeal having been taken to this Court from orders of the Supreme Court, New York County, both entered on or about January 18, 2012 (mot. seq. nos. 008, 010), and said appeal having been perfected,

And defendant-appellant having moved for a stay of enforcement of the orders pending hearing and determination of the appeal taken therefrom, and for other relief,

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

It is ordered that the motion is denied.

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 6, 2012.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam, Justices.

-----x  
Bank of New York, as Trustee for the  
Certificate Holders of CWALT 2005-38,  
Plaintiff-Respondent,

-against-

Paul C. Lounsbury, also known as Paul M-662  
Craig Lounsbury, heir to the Estate M-787  
of Lavina Nihoul Lounsbury, also known Index No. 116822/06  
as Lavina Lounsbury,  
Defendant-Appellant,

Jonathan M. Hunt, also known as  
Jonathan McIndoe Hunt, etc., et al.,  
Defendants-Respondents,

Board of Managers of 26 West 74  
Condominium,  
Defendant-Respondent.

-----x

Defendant-appellant having moved for an enlargement of time to perfect the appeal from the order of the Supreme Court, New York County, entered on or about June 23, 2010 (mot. seq. no. 004) [M-662],

And defendant-respondent, Board of Managers of 26 West 74 Condominium, having cross-moved to deny any further enlargements of time for defendant-appellant to perfect the aforesaid appeal [M-787],

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-662] is granted to the extent of enlarging the time to perfect the appeal to on or before March 19, 2012 for the June 2012 Term. Upon failure to so perfect, an order dismissing the appeal May be entered ex parte, provided respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof. The cross motion [M-787] is granted accordingly, and otherwise denied.

ENTER:



CLERK