

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 13, 2010.

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

-----X  
Nehal Vadhan and Rasika Narang,  
Plaintiffs-Respondents,

-against-

M-1277  
Index No. 105281/07

Cecilio Sanchez and Pride Equipment  
Corporation,  
Defendants-Appellants.

-----X

An appeal having been taken from orders of the Supreme Court, New York County, entered on or about October 20, 2009 (mot. seq. no. 001),

Now, upon reading and filing the stipulation of the parties hereto, filed March 9, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the April 2010 Term, is withdrawn in accordance with the aforesaid stipulation.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 13, 2010.

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

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

-against-

M-775  
Case No. 48932C/05

Noel Bruno, Jr., also known as Sleep,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, Bronx County, rendered on or about December 3, 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 any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

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 13, 2010.

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

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

Miguel R.,  
Petitioner-Respondent,

M-915  
Docket No. V-01465/08

-against-

Wilda C.,  
Respondent-Appellant.

-----  
Steven Banks, Esq.,  
Law Guardian for the Child.

-----x  
Petitioner-respondent having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, New York County, entered on or about March 23, 2009, and for 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, as academic, said relief having been granted by the order of this Court entered on March 4, 2010 (M-5804), a copy of which is annexed hereto. Sua sponte, the appeal is adjourned to the June 2010 Term, and respondent's counsel is directed to immediately serve the brief upon petitioner's assigned counsel.

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 4, 2010.

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

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

- - - - -  
Miguel R.,  
Petitioner-Respondent,

M-5804  
Docket No. V-01465/08

-against-

Wilda C.,  
Respondent-Appellant.

-----x  
Petitioner-respondent having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, New York County, entered on or about March 23, 2009, and for 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 granted to the extent of (1) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorneys for respondent-appellant and 10 copies thereof are to be filed with this Court, and (2) assigning, pursuant to Section 18b of the County Law and § 1120 of the Family Court Act, Geoffrey P. Berman, Esq., 2005 Palmer Avenue, #176, Larchmont, New York 10538, Telephone No. 914-834-3053, as counsel for purposes of responding to the 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 13, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
Angela M. Mazzairelli  
Rolando T. Acosta  
Leland G. DeGrasse  
Rosalyn H. Richter, Justices.

-----X  
Peach Parking Corp.,  
Plaintiff-Appellant,

-against-

M-1080  
Index No. 103096/04

346 West 40<sup>th</sup> Street, LLC, et al.,  
Defendants-Respondents.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about January 21, 2010,

And plaintiff having moved to stay certain obligations under the aforesaid judgment with respect to repairs to the subject premises and a money judgment in favor of defendants, and for related relief, 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 to the extent of continuing the relief afforded appellants by the order of a Justice of this Court, dated March 15, 2010, upon the terms and conditions continued therein, and 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 13, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
John W. Sweeny, Jr.  
Eugene Nardelli  
Dianne T. Renwick, Justices.

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

-against-

M-829A  
Ind. No. 2035/02

George Hyde,  
Defendant-Appellant.

-----X

An order of a Justice of this Court having been entered on April 13, 2010 (M-829), granting defendant leave to appeal to this Court from the order of the Supreme Court, Bronx County (Seth L. Marvin, J.), entered on or about December 23, 2009, which denied his motion pursuant to CPL 440.10,

Now, upon the Court's own motion,

It is ordered that poor person relief 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.

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. (See M-829, decided simultaneously herewith.)

ENTER:

  
Clerk

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

BEFORE: Hon. Richard T. Andrias  
Justice of the Appellate Division

-----X

The People of the State of New York,

Respondent,

-against-

George Hyde,

Defendant-Appellant.

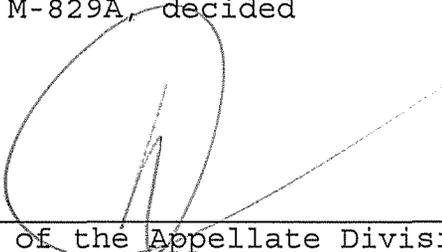
-----X

M-829  
Ind. No. 2035/02

CERTIFICATE  
GRANTING LEAVE

I, Richard T. Andrias, a Justice of the Appellate Division, First Judicial Department, do hereby certify that in the proceedings herein questions of law or fact are involved which ought to be reviewed by the Appellate Division, First Judicial Department, and, pursuant to Section 460.15 of the Criminal Procedure Law, permission is hereby granted to the above-named defendant to appeal to the Appellate Division, First Judicial Department, from the order of the Supreme Court, Bronx County (Seth L. Marvin, J.), entered December 23, 2009, denying his motion pursuant to CPL 440.10.<sup>1</sup> (See M-829A, decided simultaneously herewith).

Dated: New York, New York  
March 31, 2010



Justice of the Appellate Division

NOTICE: Within 15 days from the date hereon, an appeal must be taken, and this certificate must be filed with the notice of appeal. An appeal is taken by filing, in the Clerk's office of the criminal court in which the order sought to be appealed was rendered, a written notice in duplicate that appellant appeals to the Appellate Division, First Judicial Department (Section 460.10, subd. 4, CPL), together with proof that another copy of the notice of appeal has been served upon opposing counsel. The appeal (or consolidated appeals; see footnote) must be argued within 120 days from the date of the notice of appeal, unless the time to perfect the appeal(s) is enlarged by the court or a justice thereof.

<sup>1</sup>In the event defendant has an existing (direct) appeal from a judgment, such appeal shall be consolidated with the appeal from the aforesaid order; and any poor person relief granted with respect to the appeal from the judgment shall be extended to cover the appeals so consolidated.

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 13, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
John W. Sweeny, Jr.  
Eugene Nardelli  
Dianne T. Renwick, Justices.

-----X  
Luis Barros,  
Plaintiff-Respondent,

-against-

Cappelli Enterprises, Inc., George  
A. Fuller Construction Management,  
Inc. and HRH Construction, LLC,  
Defendants,

-and-

New Roc Parcel 1A, LLC and  
George A. Fuller, Company, Inc.,  
Defendants-Appellants.

M-60  
Index No. 14727/06

-----X  
Cappelli Enterprises Inc., New Roc  
Parcel 1A, LLC, George A. Fuller  
Company, Inc., George A. Fuller  
Construction Management, Inc. and  
HRH Construction, LLC,  
Third-Party Plaintiffs,

-against-

Roger & Sons Concrete, Inc.,  
Third-Party Defendant-Appellant.

-----X

An appeal having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about June 29, 2009,

And defendants New Roc Parcel 1A, LLC and George A. Fuller, Company, Inc. having moved for a stay of trial herein pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from David C. Zegarelli, Esq., of Milber Makris Plousadis & Seiden, LLP, 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 13, 2010.

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

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

Miqel Adante L.,

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

-----  
The Children's Aid Society, et al.,  
Petitioners-Respondents,

M-506  
Docket No. B-11598/07

Marcus L.,  
Respondent-Appellant.

-----  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Law Guardian for the Child.

-----X  
Petitioner-respondent agency having moved to dismiss the appeal from the order of the Family Court, New York County, entered on or about April 6, 2009, for failure to prosecute and timely perfect,

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

Ordered that the motion is granted and the appeal is dismissed.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 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-604  
Ind. No. 7874/98

Odell Clifton,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about January 28, 2010, 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, 11<sup>th</sup> 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 13, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
David Friedman  
Karla Moskowitz  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
Vincenzo Ferriolo,

Plaintiff-Appellant,

-against-

M-5631  
Index No. 105667/04

The City of New York, et al.,

Defendants-Respondents.  
-----X

Defendants-respondents having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appals from the decision and order of this Court entered on November 19, 2009 (Appeal No. 1510),

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, to the extent that it seeks reargument is granted and, upon reargument, the decision and order of this Court entered on November 19, 2009 (Appeal No. 1510) is recalled and vacated and a new decision and order substituted therefor. (See Appeal No. 1510, decided simultaneously herewith.) The motion, to the extent it seeks leave to appeal to the Court of Appeals, 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 13, 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 the Application of  
Yvonne Marion,  
Petitioner,

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

M-636  
Index No. 402416/08

-against-

New York City Housing Authority,  
Respondent.

-----X

An Article 78 proceeding to review a determination of respondent having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about April 28, 2009 (mot. seq. no. 001),

And petitioner having moved for dismissal of the proceeding for failure to timely perfect,

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

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

ENTER:

  
Clérk

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 13, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
Leland G. DeGrasse  
Sheila Abdus-Salaam  
Sallie Manzanet-Daniels, Justices.

-----X

The People of the State of New York,  
Respondent,

M-804

M-956

-against-

Ind. No. 5394/98

Keith Brock,  
Defendant-Appellant.

-----X

Defendant having moved by duplicate motions for leave to prosecute, as a poor person, the appeal from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about February 3, 2010, 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 motions, and due deliberation having been had thereon,

It is ordered that the motions are 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, 11<sup>th</sup> 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 13, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
Leland G. DeGrasse  
Sheila Abdus-Salaam  
Sallie Manzanet-Daniels, Justices.

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

Respondent,

-against-

M-668  
Index No. 7737/01

Porfirio Mendoza,

Defendant-Appellant.  
-----x

Respondent having moved for dismissal of the appeal from the judgment of the Supreme Court, New York County, rendered on or about May 31, 2002,

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

It is ordered that the motion is denied. (See the order of this Court entered on February 9, 2010 [M-122], a copy of which is annexed hereto.)

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on February 9, 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-122  
Ind. No. 7737/01

Porfirio Mendoza,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about May 31, 2002, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

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

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

Steven 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 April 13, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
Leland G. DeGrasse  
Sheila Abdus-Salaam  
Sallie Manzanet-Daniels, Justices.

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

-against-

M-800  
Ind. No. 7375/02

Gilberto Sosa,  
Defendant-Respondent.

-----X

Defendant-respondent having moved for leave to respond, as a poor person, to the People's appeal from the judgment of **resentence** of the Supreme Court, New York County, rendered on or about January 22, 2010, and for assignment of counsel,

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

It is ordered that the motion is granted to the extent of (1) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorney for the People and 10 copies thereof are filed with this Court, and (2) assigning, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11<sup>th</sup> Floor, New York, New York 10006, Telephone No. 212-577-2523 , as counsel for purposes of responding to the 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 13, 2010.

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

-----X  
Judith Halevi, et al.,  
Plaintiffs,

-against-

Bartley Fisher,  
Defendant.

. M-842

-----  
Bartley Fisher,  
Counterclaim-Plaintiff-Appellant,

-against-

Action No. 1  
Index No. 604456/06

Judith Halevi, et al.,  
Counterclaim-Defendants,

-and-

Wagner Davis P.C., et al.,  
Additional Counterclaim-Defendants-  
Respondents,

-and-

J-Bar Associates, LLC, et al.,  
Additional Counterclaim-Defendants.

-----  
Judith Halevi,  
Plaintiff,

-against-

Action No. 2  
Index No. 105349/07

Bartley Fisher,  
Defendant.

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-----  
Bartley Fisher,  
Counterclaim Plaintiff-Appellant,

-against-

Judith Halevi,  
Counterclaim Defendant,

Action No. 2 (cont.)  
Index No. 105349/07

-and-

Wagner Davis P.C., et al.,  
Additional Counterclaim Defendants-  
Respondents,

-and-

J-Bar Associates, LLC, et al.,  
Additional Counterclaim Defendants.

-----X

Appeals having been taken to this Court by defendant/  
counterclaim plaintiff-appellant, Bartley Fisher, from the  
order of the Supreme Court, New York County, entered on or  
about June 12, 2009 with respect to each of the above captioned  
actions,

And defendant/counterclaim plaintiff 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 defendant/counterclaim plaintiff 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 13, 2010.

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

-----x  
In the Matter of the Guardianship of  
the Person and Custody of

John Avery D., Jr.,

A Child Under 18 Years of Age Pursuant  
to § 384-b of the Social Services Law  
of the State of New York and/or  
Article 6 of the Family Court Act.

M-536  
Docket No. B-6378/04

-----  
McMahon Services for Children, et al.,  
Petitioners-Respondents,

John D.,  
Respondent-Appellant.

-----  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Law Guardian for the Child.

-----x  
Petitioner-respondent agency McMahon Services for Children  
having moved for dismissal of the appeal from the order of the  
Family Court, Bronx County, entered on or about June 29, 2007,  
for failure to timely perfect,

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

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

ENTER:

  
Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 2010.

PRESENT: Hon. Angela M. Mazzairelli, Justice Presiding,  
John W. Sweeny, Jr.  
Eugene Nardelli  
Rolando T. Acosta  
Sallie Manzanet-Daniels, Justices.

-----X  
Interasian Digital Technology  
Holdings Ltd.,  
Petitioner-Respondent,

-against-

M-758  
Index No. 600006/10

James Park and Praxton, LLC,  
Respondents-Appellants.

-----X

Respondents-appellant having moved for a stay of proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about February 1, 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 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 13, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
Rolando T. Acosta  
Dianne T. Renwick  
Helen E. Freedman, Justices.

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

-against-

M-89  
Ind. No. 4191/08

Jermaine Cooper,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about December 11, 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 any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Steven 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 April 13, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,  
David B. Saxe  
John W. Sweeny, Jr.  
Eugene Nardelli  
Helen E. Freedman, Justices.

-----X  
Joel Thome,

Plaintiff-Appellant,

-against-

M-24  
Index No. 600823/07

The Alexander & Louisa Calder  
Foundation, etc., et al.,

Defendants-Respondents.  
-----X

Plaintiff-appellant having moved for reargument/renewal of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 1, 2009 (Appeal No. 580),

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.

**CORRECTED ORDER – April 15, 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 13, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,  
David Friedman  
Rolando T. Acosta  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
Violetta Khotyanova,

Plaintiff,

-against-

M-767  
Index No. 27130/02

New York Community Hospital and  
Merab Krikhely, M.D.,

Defendants.  
-----X

An order of this Court having been entered on January 26, 2010 (M-5419), denying plaintiff's motion for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, Bronx County, entered on or about July 3, 2008, and sua sponte dismissing the appeal,

And plaintiff having moved for reargument of the order dismissing the appeal (M-5419),

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 13, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Helen E. Freedman, Justices.

-----X  
Kerwin Espino, an infant by his  
mother and natural guardian, Rosa  
Espino, and Rosa Espino, individually,  
Plaintiffs-Respondents,

-against-

M-918  
Index No. 23833/02

The New York City Board of Education,  
Defendant-Appellant,

-and-

The City of New York,  
Defendant.

-----X

Defendant-appellant 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 May 1, 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 granted to the extent of enlarging the time in which to perfect the appeal 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 13, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Helen E. Freedman, Justices.

-----X  
Bernard Lewis,  
Plaintiff-Respondent,

-against-

M-844  
Index No. 121119/02

The City of New York, Joseph Caputo,  
individually,  
Defendants-Appellants,

-and-

LFI Pyramid Consulting Inc.,  
Defendant.

-----X

Defendants-appellants having moved for an enlargement of time in which to perfect the appeal from a judgment of the Supreme Court, New York County, entered on or about May 5, 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 granted to the extent of enlarging the time in which to perfect the appeal 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 13, 2010.

Present - Hon. David Friedman, Justice Presiding,  
Eugene Nardelli  
James M. Catterson  
Leland G. DeGrasse, Justices.

-----X  
Janet R. Marks, Ph.D.,  
Plaintiff-Respondent-Appellant,

-against-

M-5323  
Index No. 603265/04

Sharon P. Smith, et al.,  
Defendants-Appellants-Respondents.

-----X

Plaintiff-respondent-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on September 15, 2009 (Appeal No. 83),

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 13, 2010.

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

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

-against-

M-5787  
Ind. No. 2141/01

Julio Nova,

Defendant.  
-----X

Defendant having moved for an enlargement of time to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about June 6, 2002,

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. (CPL 460.30 subd. 1)

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 2010.

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

-----x  
Jeffrey Hoffman,

Plaintiff-Respondent,

-against-

M-660  
Index No. 603109/08

Helm Capital Group, Inc.,

Defendant-Appellant.  
-----x

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, entered on or about March 26, 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, sua sponte, the appeal is dismissed.

ENTER:

  
Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 13, 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-797  
Ind. No. 1136/04

Kevin Edmond,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about February 8, 2010, 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, 11<sup>th</sup> 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

PM ORDERS

ENTERED

APRIL 8, 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 8, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
James M. McGuire  
Karla Moskowitz  
Rolando T. Acosta  
Leland G. DeGrasse, Justices.

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

Kevin W.,  
Petitioner-Appellant,

**M-1236**  
Docket No. V9884/08

-against-

Administration for Children's Services,  
et al.,  
Respondents-Respondents.  
-----X

An appeal having been taken from the order of the Family Court, Bronx County, entered on or about October 2, 2008,

And an order of this Court having been entered on February 11, 2010 (M-129), enlarging petitioner's time in which to file a pro se supplemental brief to the May 2010 Term,

And petitioner having moved for a further 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 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 8, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
Eugene Nardelli  
James M. McGuire  
Karla Moskowitz, Justices.

-----x

Vector Media, Inc.,

Plaintiff-Respondent,

-against-

M-1551  
Index No. 103665/10

The City of New York, et al., etc.,

Defendants-Appellants.

-----x

An appeal having been taken to this Court from the order to show cause of the Supreme Court, New York County, dated March 23, 2010,

And defendants-appellants having moved, pursuant to CPLR 5519(c) and/or CPLR 5518, for a stay of the order, which enjoined defendants-appellants from enforcing provisions of its Zoning Resolution prohibiting advertising signs in certain areas of the City, 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 deemed one for relief pursuant to CPLR 5704(a) and, as such, the motion is denied, without prejudice to further proceedings in Supreme Court. (See M-1552, 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 in the County of New York on April 8, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
James M. McGuire  
Karla Moskowitz  
Rolando T. Acosta  
Leland G. DeGrasse, Justices.

-----X  
R.P. Brennan General Contractors &  
Builders, Inc.,  
Plaintiff-Respondent,

-against-

CPS 1 Realty LP,  
Defendant-Appellant.

**M-1354**  
Index No. 603088/08

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 12, 2010,

And defendant-appellant having moved for a stay of enforcement of the aforesaid order or for alternative relief, pending hearing and determination of the 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 8, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,  
John W. Sweeny, Jr.  
Dianne T. Renwick  
Sheila Abdus-Salaam  
Sallie Manzanet-Daniels, Justices.

-----x  
Evangelia Manios Zachariou,

Plaintiff-Appellant,

-against-

Vassilios Manios,

Defendant-Respondent.  
-----x

M-1405  
Index No. 601196/06

Plaintiff-appellant having moved for a stay of deposition proceedings pending hearing and determination of the appeal from the order of the Supreme Court, New York County, entered on or about March 4, 2010 (mot. seq. no. 008),

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 March 17, 2010, is vacated.

ENTER:



Clerk