

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 29, 2010.

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

-----X
In the Matter of

Samantha G. and
Michelle G.,

Children Under 18 Years of Age Alleged
to be Neglected.

Administration for Children's Services,
Petitioner-Respondent,

M-1300
Docket Nos. NN26922/09
NN26923/09

Arelis O.,
Respondent-Respondent.

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

An appeal having been taken from the order of the Family Court, Bronx County, entered on or about October 20, 2009,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Judith Waksberg, Esq., the Legal Aid Society, counsel for the children, and due deliberation having been had thereon,

It is ordered that the appeal is deemed withdrawn in accordance with the aforesaid correspondence.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 29, 2010.

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

-----X
Bill Bouzas and Dorothy Bouzas,
Plaintiffs-Appellants,

-against-

M-1564X
Index No. 111940/07

Kosher Deluxe Restaurant and Midtown
Food Corp.,
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 31, 2009 (mot. seq. no. 001),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 23, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 29, 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-1583
In. No. 6844/03

William Dillhunt,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of resentence of the Supreme Court, New York County, rendered on or about December 9, 2008,

Now, upon reading and filing the stipulation of the parties hereto, dated March 19, 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 29, 2010.

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

-----X
Rowena Cheung, etc.,
Plaintiff-Appellant,

-against-

M-1610X
Index No. 601232/09

Uncommon Foundry Inc., et al.,
Defendants-Respondents.
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about October 26, 2009 (mot. seq. no. 001),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 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 29, 2010.

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

-----X
Rowena Cheung,
Plaintiff-Respondent,

-against-

M-1611X
Index No. 601231/09

Barroness Accessories LLC, et al.,
Defendants-Appellants.
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about October 26, 2009 (mot. seq. no. 001),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" March 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 29, 2010.

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

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

-against-

Robert Sullivan,
Defendant-Appellant.

M-1477
Ind. Nos. 2415/03
3338/03
3340/03
3341/03
3342/03

-----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 March 11, 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 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 before Judge Solomon, 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 29, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Eugene Nardelli
Sheila Abdus-Salaam, Justices.

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

-against-

M-5708
Ind. No. 2141/94

Michael Henriquez, also known as
Mike Henriquez,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on August 21, 2003 (Appeal No. 1470), unanimously affirming a judgment of the Supreme Court, Bronx County (Martin Marcus, J.), rendered on April 16, 1996,

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

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

It is ordered that said application is denied.

ENTER:


Clerk.

CORRECTED ORDER - JUNE 4, 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 29, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David Friedman
Eugene Nardelli
James M. Catterson, Justices.

-----x

In the Matter of the Application of
Sheril G.,
Petitioner-Respondent,

for the Appointment of a Guardian of

Ena G., etc.,
Respondent-Respondent.

M-72
M-330
Index No. 500068/09

An Incapacitated Person Pursuant to
Article 81 of the Mental Hygiene Law.

- - - - -
Arnon D. Siegel,
Non-Party Respondent-Appellant,

Berwitz & DiTata, LLP,
Non-Party Respondent-Respondent.

-----x

An appeal having been taken to this Court from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about August 21, 2009,

And non-party respondent-appellant **Arnon** D. Siegel having moved for leave to prosecute, as a poor person, the aforesaid appeal, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief (M-72),

And non-party respondent-respondent Berwitz & DiTata, LLP having cross moved for dismissal of the appeal or for dismissal of a portion of the appeal with respect to legal fees awarded to them, and for the imposition of a sanction upon appellant for frivolous conduct pursuant to 22 NYCRR 130-1.1[a] (M-330)

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-72) is denied. The cross motion (M-330) is granted to the extent of dismissing so much of the appeal with respect to the award of legal fees to non-party respondent Berwitz & DiTata, LLP, and the remainder of the appeal is deemed withdrawn.

ENTER:

A handwritten signature in black ink, reading "David Apokony". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

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 29, 2010.

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

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

-against-

M-1042
Ind. No. 7264/03

Louis Barone,
Defendant-Appellant.

-----X

Respondent having moved to dismiss the appeal from the judgment of the Supreme Court, New York County, rendered on or about August 12, 2004,

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 29, 2010.

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

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

-against-

M-1138
Ind. No. 6720/98

Jessie Velez,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of resentence of the Supreme Court, Bronx County, rendered on or about June 18, 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 29, 2010.

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

-----X

The People of the State of New York,

Respondent,

-against-

M-1223
Ind. No. 3178N/09

Jose Sotomayer,

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 February 8, 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 denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$5,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

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 29, 2010.

Present - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzaelli
Richard T. Andrias
David B. Saxe
Leland G. DeGrasse, Justices.

-----X
Augustin Delgado,

Plaintiff-Respondent,

-against-

M-1463
Index No. 570705/09

Jorge Badia and David Nunez,

Defendants-Appellants.
-----X

Defendants-appellants having moved for leave to appeal to this Court from the decision and order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about January 13, 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 29, 2010.

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

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

Respondent,

-against-

M-1088
Ind. No. 6425/05

Anthony Griffin, also known as
Fruquan Griffin,

Defendant-Appellant.
-----X

An order of this Court having been entered on January 19, 2010 (M-5670), inter alia, granting defendant leave to file a pro se supplemental brief in connection with the appeal from a judgment of the Supreme Court, New York County, rendered on or about October 19, 2006,

And defendant having moved for an extension of time in which to file the 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 August 9, 2010 for the October 2010 Term, to which Term the appeal is adjourned. 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 29, 2010.

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

-----X
Luis Molina, Jr.,

Plaintiff-Appellant,

-against-

L.A. Taxi, Inc. and Imran Pervez,

Defendants-Respondents.
-----X

M-819
M-1139
Index No. 22270/05

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

And plaintiff-appellant having moved to stay re-trial in this action pending hearing and determination of the aforesaid appeal (M-819),

And defendants-respondents having cross-moved to dismiss plaintiff's appeal (M-1139),

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 plaintiff's motion (M-819) to stay re-trial 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 defendants-respondents serve a copy of this order upon plaintiff-appellant within 10 days after the date of entry hereof. Defendants' motion (M-1139) to dismiss plaintiff's appeal is granted to the extent indicated.

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 29, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David B. Saxe
James M. McGuire
Sallie Manzanet-Daniels, Justices.

-----X
Christakis Shiamili, Individually and
on Behalf of Ardor Realty Corp.,
Plaintiff-Respondent,

-against-

M-257
Index No. 600460/08

The Real Estate Group of New York,
Inc., et al.,
Defendants-Appellants.

-----X

Plaintiff-respondent having moved for reargument of or, in the alternative, leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 17,, 2009 (Appeal No. 1809),

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 29, 2010.

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

-----X
2350 Fifth Avenue, LLC,

Plaintiff-Respondent,

-against-

M-1303
Index No. 113827/06

2350 Fifth Avenue Corporation,

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 February 13, 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 29, 2010.

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

-----X
Pamela A. Phillips,

Plaintiff-Appellant,

-against-

M-1330
Index No. 602064/08

Gabe Hoffman, 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 June 1, 2009 (mot. seq. no. 003),

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 29, 2010.

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

-----x
Dan Halper, as Guardian of the Person
and Property of Jan Sloniowski,
Plaintiff-Appellant,

-against-

JPMorgan Chase Bank, N.A., Gail Steliga
and Anna Ziko,
Defendants,

M-1575
Index No. 103893/08

Human Resources Administration of the
City of New York,
Defendant-Respondent.

- - - - -
(And another action)
-----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 February 3, 2009 (mot. seq. no. 002),

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 29, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,
David B. Saxe
Eugene Nardelli
Dianne T. Renwick
Helen E. Freedman, Justices.

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

-against-

M-972
Ind. No. 6850/04

Hector Ferrer,
Defendant-Appellant.

-----X

Defendant-appellant having moved for reargument of the decision and order of this Court entered on January 26, 2010 (Appeal No. 2034),

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 29, 2010.

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

-----X
Applehead Pictures LLC,
Plaintiff-Respondent,

-and-

Ronald O. Perelman, derivatively
and on behalf of Applehead Pictures
LLC,
Plaintiff,

M-761
Index No. 602606/07

-against-

Ronald O. Perelman,
Defendant-Appellant,

-and-

Ellen Barkin, et al.,
Defendants.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about January 7, 2010,

And defendant-appellant having moved for a stay of so much of the aforesaid judgment which denied defendant's motion to seal the record herein, and to seal the record on appeal and briefs filed herein 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 granted only to the extent of directing the Clerk to designate the papers filed in this action "Confidential", 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 29, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

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

- - - - -
Latisha L.,
Petitioner-Respondent,

M-1411
Docket No. U11748/07

-against-

Omel McL., Jr.,
Respondent-Appellant.

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

-----X
Respondent-appellant father 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 July 10, 2009, 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 only to the extent of (1) 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; (2) permitting respondent-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; (3) directing respondent-appellant to perfect this appeal within 60 days of receipt of the transcripts. Respondent-appellant is directed to immediately serve a copy of this order upon the Clerk of the Family Court. So much of the motion which seeks the assignment of counsel is denied.

ENTER:

A handwritten signature in cursive script that reads "David Apokony". The signature is written in black ink and is positioned to the right of the word "ENTER:". Below the signature, the word "Clerk." is printed in a standard serif font.

Clerk.

¹Service of appellant's brief upon respondent(s) shall include appellant'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 April 29, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
David B. Saxe
James M. Catterson
Rolando T. Acosta, Justices.

-----X
Jonas Macedo,
Plaintiff-Respondent,

-against-

J.D. Posillico, Inc.,
Defendant-Appellant-Respondent,

URS Corporation,
Defendant.

J.D. Posillico, Inc.,
Third-Party Plaintiff-Respondent, Index Nos. M-174
M-184
108316/06
85252/06

-against-

Carabie Corp.,
Third-Party Defendant-Appellant.

Jonas Macedo,
Plaintiff-Appellant,

-against-

J.D. Posillico, Inc.,
Defendant-Respondent,

URS Corporation,
Defendant.

J.D. Posillico, Inc.,
Third-Party Plaintiff-Respondent,

-against-

Carabie Corp.,
Third-Party Defendant-Respondent.

-----X

Third-party defendant-respondent-appellant Carabie Corp. and third party plaintiff-respondent having separately moved for reargument of or, in the alternative, leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 10, 2009 (Appeal Nos. 1731, 1732,1733),

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

It is ordered that the motions are denied in their entirety.

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 29, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Karla Moskowitz
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----X
5757 Associates,
Plaintiff-Appellant,

-against-

M-816
Index No. 602178/08

William Blanford,
Defendant,

Yohannes Syoum,
Defendant-Respondent.
-----X

Plaintiff-appellant having moved for reargument of or, in the alternative, leave to appeal to the Court of Appeals from the decision and order of this Court entered on January 28, 2010 (Appeal No. 2067),

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 29, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Karla Moskowitz
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----X
Tran Han Ho, et al.,
Plaintiffs-Appellants,

-against-

M-1231
Index No. 102956/03

Patrick J. Brackley,
Defendant-Respondent.

-----X

Plaintiffs-appellants having moved for reargument of or, in the alternative, leave to appeal to the Court of Appeals from the decision and order of this Court entered on January 28, 2010 (Appeal No. 2059),

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 29, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Boulevard Housing Corp.,
Petitioner-Landlord
Respondent-Appellant,

-against-

Lauren Bisk,
Respondent-Tenant
Appellant-Respondent,

M-1115
M-1343
Index. No. 570472/07

-----X

Respondent Lauren Bisk having moved for leave to appeal to this Court from the decision and order of the Appellate Term, entered in the office of the Clerk of the Supreme Court, New York County on or about December 19, 2008 (M-1115),

And petitioner Boulevard Housing Corp. having cross-moved for the same relief (M-1343),

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 granted. Respondent-appellant-respondent and petitioner-respondent-appellant shall file two copies of the pre-argument statement and of this order with the Clerk of the Appellate Term with proof of service, pursuant to Section 600.17 of the Rules of this Court. The attention of the parties is directed to Rule 600.11 (d) of this Court with respect to a joint record and costs thereof.

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 29, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Helen E. Freedman
Rosályn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Keisha Thomas,
Plaintiff-Respondent,

-against-

M-1628

M-1661

Boston Properties,
Defendant-Appellant,

Index No. 116922/05

Allied Partners, et al.,
Defendants,

Citigroup Center Condominium,
Defendant-Appellant.

-----X
(And a third-party action)

Appeals having been taken by the respective appellants from the order of the Supreme Court, New York County, entered on or about February 11, 2010,

And defendant-appellant Boston Properties having moved to stay trial pending hearing and determination of the aforesaid appeals (M-1628),

And defendant-appellant Citigroup Center Condominium having moved for the same relief (M-1661),

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

Ordered that respective defendants-appellants' motions to stay trial are 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 April 29, 2010.

Present: Hon. Angela M. Mazzaelli, Justice Presiding,
John W. Sweeny, Jr.
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Richard Bender and Pamela Bender,

Plaintiffs-Appellants,

-against-

M-2129
Index No. 104541/05

101 Productions Ltd. and Jumpers Ltd.,

Defendants-Respondents.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about October 8, 2009 (mot. seq. no. 005),

And plaintiffs-appellants having moved for a stay of trial 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.

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 29, 2010.

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

-----X
The City of New York,

Plaintiff-Appellant,

-against-

M-1285

Index No. 401765/08

393 Rest on Eighth Inc.,
Defendant-Respondent,

The New York State Liquor Authority,
et al.,

Defendants.
-----X

Defendants having moved for reargument of or leave to appeal to the Court of Appeals from the decision and order of this Court entered on February 11, 2010 (Appeal Nos. 2142-2143), 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 reargument is granted, and upon reargument the Court adheres to its determination in a revised memorandum. The decision and order of this Court entered February 11, 2010 is recalled and vacated and a revised decision and order substituted therefor (See Appeal Nos. 2142-2143 decided simultaneously herewith). 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 29, 2010.

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

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

-against- M-1211
Ind. No. 962/03

Wazim Bulla,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of resentence of the Supreme Court, New York County, rendered on or about January 21, 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 29, 2010.

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

-----X
Pierre Maccagno, Ph.D.,
Plaintiff,

-against-

M-1166
Index No. 601054/09

John J. Prior, Jr., George A. Needham
and Needham & Company, LLC,
Defendants.

-----X

Plaintiff having moved for leave to appeal to this Court purportedly from the order of the Supreme Court, New York County, entered on or about December 17, 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 with leave renew upon submission of a copy of the notice of appeal and a copy of the order appealed as well as an affidavit which satisfies the requirements of CPLR 1101(a), and submission of documentary evidence establishing movant's indigency, including Federal and State income tax returns for the years 2007 and 2008.

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 29, 2010.

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

-----X
Debra Simon,
Plaintiff-Respondent,

-against-

M-1259
Index No. 309958/08

Arnold Simon,
Defendant-Appellant.
-----X

Appeals having been taken from a judgment and order of the Supreme Court, New York County, entered on or about July 7, 2009 and August 7, 2009 (mot. seq. no. 002), respectively,

And defendant-appellant having moved for an enlargement of time in which to perfect 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 enlarging the time in which to perfect the appeal from the judgment entered July 7, 2009 to the September 2010 Term. *Sua sponte* the appeal taken from the order entered August 7, 2009 is dismissed as untimely taken [CPLR 5513(a)].

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 29, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,
John W. Sweeny, Jr.
Eugene Nardelli
James M. Catterson
Leland G. DeGrasse, Justices.

-----X
In re Antonio Jenkins,
Petitioner-Appellant,

-against-

M-5737
Index No. 106290/08

State of New York Public Employment
Relations Board,
Respondent-Respondent,

United Federation of Teachers, etc., et al.
Respondents.

-----X

Petitioner-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on November 19, 2009 (Appeal No. 1537),

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 29, 2010.

PRESENT - Hon. David B. Saxe, Justice Presiding,
James M. Catterson
Karla Moskowitz
Leland G. DeGrasse
Sheila Abdus-Salaam, Justices.

-----X
Joseph A. LoRiggio,
Plaintiff-Appellant,

-against-

M-725
Index No. 602632/05

Steven Sabba, et al.,
Defendants-Respondents.
-----X

Defendants-respondents having moved for reargument of the decision and order of this Court entered on January 12, 2010' (Appeal Nos. 1961-1961A),

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 29, 2010.

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

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

-against-

M-1053
Ind. No. 6037/07

Leonard Burwell,
Defendant-Appellant.
-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about November 10, 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 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 29, 2010.

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

-----X
In the Matter of the Applications of
the Bronx Committee for Toxic Free
Schools, Jane Maisel, Chaira Salem,
Omar Salem (a minor), Kathleen Saunders,
John Fielder, D. Lee Ezell and Yolanda
Gonzalez,

Petitioners-Respondents,

M-859

Index No.13800/07

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

New York City School Construction
Authority, New York City Department
Of Education, City of New York,
Respondents-Appellants.

-----X

Respondents-appellants having moved for an enlargement of time in which to perfect the appeals from the orders of the Supreme Court, Bronx County, entered on or about October 28, 2008 and on or about December 1, 2009, respectively,

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

Sua sponte, the appeals are consolidated and appellant is permitted to prosecute the appeals upon 10 copies of one record and one set of appellant's points covering the appeals.

It is further ordered that the motion is granted to the extent of enlarging the time in which to perfect the consolidated appeals to the September 2010 Term.

ENTER:


Clerk.

PM ORDERS

ENTERED

APRIL 27, 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 27, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Gray & Associates, LLC, in its
capacity as Trustee on behalf of
the SVCMC Litigation Trust,
Plaintiff-Respondent,

-against-

M-1861
Index No. 150446/07

Speltz & Weis LLC also known as
Wellspring Management Services LLC,
et al.,
Defendants-Appellants.

-----X

Defendants-appellants having moved for a stay of the order of the Supreme Court, New York County, entered on or about January 7, 2010 (mot. seq. no. 009), pending hearing and determination of the appeal taken therefrom,

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

It is ordered that the motion is denied.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 27, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Assured Guaranty (UK) Ltd., in its
own right and in right of Orkney Re II
PLC,
Plaintiff-Appellant,

-against-

M-1843
Index No. 603755/08

J.P. Morgan Investment Management, Inc.,
Defendant-Respondent.

- - - - -
Andrew M. Cuomo, Attorney General of
the State of New York,
Amicus Curiae.

-----X
An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about January 29, 2010, said appeal having been perfected for the June 2010 Term,

And Andrew M. Cuomo, Attorney General of the State of New York, having moved for leave to file a brief amicus curiae in connection with the aforesaid appeal, and to participate in argument,

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 Attorney General to file an amicus curiae brief and deeming the amicus curiae brief submitted with the moving papers herein as filed. 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 27, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Sasha Cutter Nye,
Plaintiff-Respondent,

-against-

M-1287
Index No. 304191/05

Timothy Nye,
Defendant-Appellant.
-----X

Defendant-appellant having moved for a stay of arrears judgment pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about December 9, 2009 (mot. seq. no. 001), 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 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 27, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Dianne T. Renwick
Leland G. DeGrasse
Sheila Abdus-Salaam, Justices.

-----X
SLG 624 Lessee LLC,
Petitioner,

-against-

The Neiman Marcus Group, Inc.,
Respondent.

M-1800
Index No. 104405/10

-----X

Petitioner having moved pursuant to CPLR 5704(a), for relief denied by a Justice of the Supreme Court, New York County, on or about April 5, 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 without prejudice to further proceedings in the Supreme 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 April 27, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
Dianne T. Renwick
Leland G. DeGrasse
Sheila Abdus-Salaam, Justices.

-----X
Errika Arrington,
Plaintiff-Respondent,

-against-

M-1490
M-1731

Bronx Jean Company, Inc., also known
as Jeans Plus, Inc.,
Defendant-Appellant,

Index No. 305343/08

John Doe whose name is unknown and
fictitious,
Defendant.

-----X

Appeals having been taken from orders of the Supreme Court, Bronx County, entered on or about September 1, 2009 and on or about December 23, 2009, respectively,

And defendant-appellant having moved to stay damages inquest pending hearing and determination of the aforesaid appeal (M-1490),

And plaintiff-respondent having cross-moved to dismiss defendant's appeal (M-1731),

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 defendant's motion to stay damages inquest is granted (M-1490). Plaintiff's cross motion to dismiss the appeal is denied (M-1731).

ENTE F



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 27, 2010.

PRESENT: Hon. Eugene Nardelli, Justice Presiding,
James M. McGuire
Rolando T. Acosta
Helen E. Freedman
Nelson S. Román, Justices.

-----X

Rachel Breitman,
Plaintiff-Respondent,

-against-

M-1577
Index No. 105789/07

Jay A. Dennett, M.D.,
Defendant-Appellant.

-----X

Defendant-appellant having moved for a stay of trial in the above-entitled action pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about December 21, 2009 (mot. seq. no. 003),

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.

PM ORDERS

ENTERED

APRIL 29, 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 29, 2010.

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

-----X
In Re New York City Asbestos Litigation:

Joseph M. Link and Yvonne Link,
Plaintiffs,

-against-

M-1184
Index No. 190121/08

84 Lumber Company, et al., including
ExxonMobil Oil Corporation,
Defendants.

-----X
James J. Young, Jr.,
Plaintiff,

-against-

M-1188
Index No. 190139/09

A.O. Smith Water Products, et al.,
including York International Corporation,
Defendants.

-----X
Sidney Goldstein and Dolores Goldstein,
Plaintiffs,

-against-

A.O. Smith Water Products, et al.,
Defendants, including

Index No. 190164/09

Kaiser Gypsum Company, Inc.,
Defendant,

M-1189

Peerless Industries, Inc.
Defendant,

M-1191

84 Lumber Company,
Defendant.

M-1193
-----X

-----X
Rafael Batista, et al., Index No. 190009/09
Betty J. Christie, etc., Index No. 190113/09
John Connelly, et al., Index No. 190161/09
Sidney Goldstein, et al., Index No. 190164/09
Yvonne Link, etc., Index No. 190121/08
Lillian A. Parsons, Index No. 190026/09
Daniel Simon, et al., Index No. 190010/09
James J. Young, Jr., Index No. 190139/09

Plaintiffs,

-against-

M-1298

A.O. Smith Water Products, et al.,
Defendants.

-----X

Appeals having been taken by the respective defendants from the order of the Supreme Court, New York County, entered on or about February 23, 2010,

And the respective defendants having moved, by separate motions, to stay all trial related proceedings pending hearing and determination of the aforesaid appeals (M-1184/M-1188/M-1189/M-1191/M-1193),

And the respective plaintiffs having moved to dismiss the aforesaid appeals (M-1298),

Now, upon reading and filing the papers with respect to the motions and correspondence from Belluck & Fox, L.L.P. (Seth A. Dymond of counsel) dated March 22, 2010, and due deliberation having been had thereon, it is

Ordered that the motions and cross motions are 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 29, 2010.

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

-----X
In Re New York City Asbestos Litigation:
-----X

Yvonne Link, individually and as
Executrix of the Estate of Joseph M.
Link, deceased,
Plaintiff,

-against-

M-1185
Index No. 190121/08

84 Lumber Company, et al.,
including ESG Electrical Group LLC
and Emerson Electric Co.,
Defendants.

-----X
Yvonne Link, individually and as
Executrix of the Estate of Joseph M.
Link, deceased,
Plaintiff,

-against-

M-1186
Index No. 190121/08

84 Lumber Company, et al.,
including Graybar Electric Co., Inc.,
Defendants.

-----X
Sidney Goldstein and Dolores Goldstein,
Plaintiffs,

-against-

M-1190
Index No. 190164/09

A.O. Smith Water Products, et al.,
including Farrell Lines,
Defendants.

-----X

-----X
Sidney Goldstein and Dolores Goldstein,
Plaintiffs,

-against-

A.O. Smith water Products, et al.,
including Bondex International, Inc.,
Defendants.

M-1192
Index No. 190164/09

-----X
Rafael Batista and Eleida Valdez-Batista,
Plaintiffs,

-against-

A.O. Smith Water Products, et al.,
including Crane Co.,
Defendants.

M-1194
Index No. 190009/09

-----X

Appeals having been taken by the respective defendants from
the order of the Supreme Court, New York County, entered on or about
February 23, 2010,

And the respective defendants having moved, by separate
motions and cross motions, to stay all trial related proceedings
pending hearing and determination of the aforesaid appeals (M-1185/
M-1186/M-1190/M-1192/M-1194),

Now, upon reading and filing the papers with respect to the
motions and correspondence from Andrew W. Dean/Simon Lesser P.C./
March 25, 2010 (M-1185), Shawnette A. Fluit/Barry, McTiernan & Moore/
March 22, 2010 (M-1186), Ruthe A. Nepf/Thompson Hine LLP/March 18,
2010 (M-1190), Colleen M. Cronin/Weiner Lesniak LLP/March 24, 2010
(M-1192), Michael E. Waller/K&L Gates LLP/March 22, 2010 (M-1194),
and due deliberation having been had thereon, it is

Ordered that defendants' motions for a stay of all trial related proceedings (M-1185/M-1186/M-1190/M-1192/M-1194) are deemed withdrawn in accordance with the aforesaid respective correspondence.

ENTER:

A handwritten signature in black ink, reading "David Apalony". The signature is written in a cursive, flowing style with a prominent initial "D".

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 29, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
James M. Catterson
Leland G. DeGrasse, Justices.

-----X
In re Liquidation of Midland Insurance
Company

- - - - -
Claims of American Standard Inc.,
et al.,
Claimants-Respondents,

-against-

M-855
Index No. 41294/86

Swiss Reinsurance America Corporation,
et al.,
Intervening Reinsurers-Appellants,

Superintendent of Insurance of the
State of New York, etc., et al.,
Appellants.

-----X

Claimants-respondents (except Echlin, Inc. and The Flintkote Company) having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on January 12, 2010 (Appeal No. 957),

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

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

"Was the order of this Court, which reversed the order of Supreme Court, properly made?"

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

ENTER: 

Clerk.