

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 May 13, 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 a Family Offense
Proceeding Under Article 8 of the
Family Court Act.

Mohammed D.,
Petitioner-Appellant,

M-1805
Docket No. O-10470/08

-against-

Hawa D.,
Respondent-Respondent.
-----X

An appeal having been taken from the order of the Family Court, New York County, entered on or about July 2, 2009,

Now, upon reading and filing the stipulation of the parties hereto, filed April 6, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 May 13, 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-1812
Ind. No. 6216/07

Edward Miller,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about September 15, 2008,

Now, upon reading and filing the stipulation of the parties hereto, dated March 11, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 May 13, 2010.

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

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

-against-

M-1813
Ind. No. 4702/01

Patrick Johnson,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about December 4, 2009,

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

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 13, 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-1814
Ind. No. 2391/02

David Soto,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about March 27, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated March 29, 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 May 13, 2010.

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

-----X
The Bank of New York Mellon Trust Company,
National Association formerly known as
The Bank of New York Trust Company,
National Association, as Trustee for
the Morgan Stanley Capital I Inc.,
Commercial Mortgage Pass-Through
Certificates, Series 2007-IQ14, Acting
By and Through Its Special Servicer
Centerline Servicing Inc.,
Plaintiffs-Appellants,
M-1066
Index No. 602806/09

-against-

DDEH 291 Pleasant LLC, et al.,
Defendants-Respondents.

-----X
An appeal having been taken from an order of the Supreme Court, New York County, entered on or about January 15, 2010,

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

Now, upon reading and filing the stipulation of the parties hereto, filed March 29, 2010, and due deliberation having been had thereon,

It is ordered that the motion is deemed 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 May 13, 2010.

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

-----X
Addo H. Kuhlmann and Susan Kuhlmann,
Plaintiffs-Respondents,

-against-

Water Street Fee, LLC, 77 Water
Street Associates, Sage Realty M-5393
Corporation, Water Street Leasehold, M-1806
LLC and Perma Iron Craft Corporation, Index No. 111143/05
Defendants,

-and-

Cushman & Wakefield,
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 22, 2009 (mot. seq. no. 004), said appeal having been perfected,

And defendant-appellant having moved for a stay of trial pending hearing and determination of the aforesaid appeal (M-5393),

Now, upon reading and filing the stipulation of the parties hereto, filed April 2, 2010 (M-1806), and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the May 2010 Term, and the motion for a stay of trial are withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

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

Present: Hon. Luis A. Gonzalez, Presiding Justice,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against-

M-1617
Ind. No. 4338/07

Tracy Galloway,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County (Richard Carruthers, J.) entered on or about January 20, 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 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, and it is further

Ordered that the Clerk of the Supreme Court shall expeditiously have made and file with the criminal court (CPL 460.70) two transcripts of the stenographic minutes of the SORA hearing and any other proceedings before Justice Carruthers as yet not transcribed. The Clerk shall furnish a copy of such transcripts to appellant's counsel, Steven Banks, Esq., without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER:


Clerk.

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

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

-----X
Sandra Delgado, as mother and natural guardian of Juan Delgado, Gregory Delgado, Lou Delgado, Enrique Delgado, Candida Delgado and Antonio Delgado, infants, and Sandra Delgado, individually,
Plaintiffs-Respondents,

M-1497
Index No. 14684/95

-against-

The City of New York and the New York City Police Department,
Defendants-Appellants,

New York City Housing Authority,
New York City Housing Police Department
and Nicholas Witkovich,
Defendants-Appellants,

Brian Washington and James Masiello,
Defendants-Appellants.

-----X
Separate appeals having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about June 13, 2008,

And defendants-appellants, New York City Housing Authority and Nicholas Witkovich, having moved for an enlargement of time of the respective appellants in which to perfect the appeals, and for related relief,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeals to on or before July 12, 2010 for the September 2010 Term.

ENTER:


Clerk.

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

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

-----X
Accounting of

Bruce Hyman,
Co-Executor Respondent,

as Co-Executor of the Estate of

M-1414
File No. 1024-2002

Malcolm A. Hyman,
Deceased,

Frederic Hyman,
Co-Executor Appellant.

-----X

Co-executor appellant having moved for an enlargement of time in which to perfect the appeal taken from the decree of the Surrogate's Court, New York County, entered on or about December 10, 2008,

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to on or before July 12, 2010 for the September 2010 Term, with no further enlargements to be granted. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte provided that respondent serves a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:


Clerk.

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

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
James M. Catterson
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Elissa Abreu,
Plaintiff-Respondent-Appellant,

-against-

M-646
Index No. 603992/06

Barkin and Associates Realty, Inc.,
et al.,
Defendants-Appellants-Respondent.

-----X

Plaintiff-respondent-appellant having moved for clarification/reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on January 7, 2010 (Appeal No. 524-524A),

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 May 13, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Eugene Nardelli
James M. Catterson
Karla Moskowitz
Dianne T. Renwick, Justices.

-----X
Sendar Development Co., LLC, etc.,
Plaintiff-Respondent,

-against-

CMA Design Studio P.C., etc., et al.,
Defendants-Respondents,

M-5792
Index No. 600731/07

Kevin H. Sweeney, P.E.,
Defendant-Appellant,

R&L General Constracting, Inc., et al.,
Defendants.

-----X

Plaintiff-respondent having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 10, 2009 (Appeal No. 339N),

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 May 13, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Eugene Nardelli
John T. Buckley
Rolando T. Acosta, Justices.

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

-against-

M-45
Ind. No. 46762C/05

Rene Bonilla,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on December 30, 2008 (Appeal No. 4906), unanimously affirming a judgment of the Supreme Court, Bronx County (Dominic Massaro, J.), rendered on June 14, 2007,

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

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

It is ordered that said application is denied.

ENTER:


Clerk.

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

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David Friedman
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

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

Mercedes Casado, et al., M-2237
Petitioners-Respondents, Index No. 402267/08

For a Judgment, etc.,

-against-

Marvin Markus, as Chair of the
New York City Rent Guidelines Board,
Respondent-Appellant.

- - - - -
The Council of the City of New York,
Amicus Curiae.

-----X
An appeal having been taken to this Court by the above-named respondent-appellant from the judgment of the Supreme Court, New York County, entered on or about February 2, 2010,

And The Council of the City of New York having moved for leave to file a brief amicus curiae in connection with 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 deeming the amicus curiae briefs submitted with the moving papers herein as filed.

ENTER:


Clerk.

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

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzairelli
John W. Sweeny, Jr.
Rolando T. Acosta, Justices.

-----X
Antonio Ruiz,
Plaintiff-Respondent,

-against-

The Port Authority of New York
and New Jersey,
Defendant-Appellant.

In re World Trade Center
Bombing Litigation

M-391
Index Nos. 129074/93
600000/94

Steering Committee,
Plaintiff-Respondent,

-against-

The Port Authority of New York
and New Jersey,
Defendant-Appellant.

-----X

Defendant-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on April 29, 2008 (Appeal No. 2617), and for related relief,

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

It is ordered that the motion is denied.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 13, 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
ex rel. Melvin DeJesus,
Petitioner-Appellant,

-against-

M-1518
Index No. 102233/10

George Okada, Warden of the New York
City Correctional Facility for the
County of New York,
Respondent-Respondent.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, entered on or about February 23, 2010, which dismissed a habeas corpus proceeding, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, 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 denied, without prejudice to renewal upon petitioner's submission of Federal income tax returns for the year 2008, an explanation of the amount and sources of funds to pay the fee of trial counsel, Ernest Hammer, Esq., and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by petitioner.)

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 May 13, 2010.

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

-----X
Arshim Kameraj,
Plaintiff-Appellant,

-against-

M-1340
Index No. 308670/08

Haim Joseph,
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about June 2, 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 May 13, 2010.

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

-----X
Lee Odell Real Estate, Inc.,

Plaintiff-Respondent,

-against-

M-1398

M-1525

Index No. 108939/07

Jack Lefkowitz, Bluma Lefkowitz
and Maskil El-Dal, Inc.,

Defendants-Appellants.
-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about May 13, 2009,

And defendant-appellants Jack and Bluma Lefkowitz having moved for an enlargement of time in which to perfect defendants' appeal (M-1398),

And defendant Maskil El-Dal, Inc., having cross-moved for the same relief (M-1525),

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 respective defendants motion and cross motion are granted to the extent of enlarging the time in which to perfect defendants' 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 May 13, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzaelli
Rolando T. Acosta
Leland G. DeGrasse
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-1540
Ind. No. 2833/08

Ronald Hudson,

Defendant-Appellant.
-----X

Defendant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, rendered on or about June 30, 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 October 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 May 13, 2010.

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

-----x
Rosanne Aponte,
Plaintiff-Respondent,

-against-

Dr. Nelson Botwinik, Seaport
Orthopaedic Associates, P.C. and
Patricia Buro, P.A.,
Defendants-Appellants,

M-1592
Index No. 117844/05

Dr. Harvey Bishow, Dr. Ronald Krinick,
Michael Bacerdo, P.A. and Downtown
Sports Medicine, P.C., doing business
as Downtown Sports and Hand Therapy,
Defendants.

-----x
Defendants-appellants 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 May 26, 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 on or before October 4, 2010 for the December 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 May 13, 2010.

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

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

-against-

M-3132
Ind. No. 1360/86

Steven Rosenbloom,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on March 30, 1989 (Appeal No. 36499), unanimously affirming a judgment of the Supreme Court, Bronx County (Reinstein, J.)', rendered on June 24, 1987,

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

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

It is ordered that said application is denied.

ENTER:


Clerk

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

PRESENT: Hon. Peter Tom, Justice Presiding,
Eugene Nardelli
James M. McGuire
Rolando T. Acosta
Leland G. DeGrasse, Justices.

-----X
Gloria Doomes, etc.,
Plaintiff-Respondent,

-against-

M-232
Index No. 16893/94
Action No. 1

Best Transit Corp., et al.,
Defendants,

Warrick Industries, Inc.,
doing business as Goshen Coach,
Defendant-Appellant.

- - - - -
Ana Jiminian, etc.,
Plaintiff-Respondent,

-against-

Index No. 16954/96
Action No. 2

Best Transit Corp., et al.,
Defendants,

Warrick Industries, Inc.,
doing business as Goshen Coach,
Defendant-Appellant.

- - - - -
Kelli Rivera,
Plaintiff-Respondent,

-against-

Index No. 17408/94
Action No. 3

Best Transit Corp., et al.,
Defendants,

Warrick Industries, Inc.,
doing business as Goshen Coach,
Defendant-Appellant.

-----X

Plaintiffs having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 10, 2009 (Appeal No. 4717/4717A/4717B),

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 in the County of New York on May 13, 2010.

Present: Hon. Peter Tom, Justice Presiding,
James M. McGuire
Karla Moskowitz
Rolando T. Acosta
Helen E. Freedman, Justices.

-----X
Ruth Colon,

Plaintiff-Respondent,

-against-

M-1983
Index No. 24563/04

Shlo-Yank Holding, Ltd., et al.,

Defendants-Appellants.
-----X

Defendants-appellants having moved to stay a second trial pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about February 9, 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, and the interim relief granted by an order of a Justice of this Court, dated April 13, 2010, is vacated.

ENTER:


Clerk.

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

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Leland G. DeGrasse
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Tracy Massop and Wendell Francis,
Plaintiffs-Appellants,

-against-

M-1450
Index No. 604121/06

Inventors Helpline/Patent and
Trademark Institute,
Defendants-Respondents.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about October 25, 2007 (mot. seq. no. 001),

And an order of this Court having been entered on June 11, 2009 (M-2384), inter alia, dismissing the aforesaid appeal,

And an order of this Court having been entered on March 2, 2010 (M-5847), denying reargument of the order of this Court entered on June 11, 2009,

And plaintiffs-appellants having moved for reargument of the order of this Court entered on March 2, 2010 (M-5847),

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 May 13, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
James M. Catterson
Karla Moskowitz, Justices.

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

Respondent,

-against-

M-5374
Ind. No. 3137/92

Tyrone Jackson,

Defendant-Appellant.
-----X

Defendant-appellant having moved for reargument of the decision and order of this Court entered on October 12, 1995 (Appeal No. 55790), and for other relief,

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

It is ordered that the motion is denied.

ENTER:


Clerk.

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

PRESENT: Hon. Angela M. Mazzairelli, Justice Presiding,
Eugene Nardelli
James M. Catterson
Leland G. DeGrasse
Nelson S. Román, Justices.

-----X
Diamond State Insurance Company,
as Subrogee of Gentry Apartments, Inc.,
Plaintiff-Respondent,

-against-

M-385
Index No. 104910/05

Utica First Insurance Company,
Defendant-Appellant.

-----X

Defendant-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on November 24, 2009 (Appeal No. 1582N),

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 May 13, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
David B. Saxe
David Friedman
Rolando T. Acosta, Justices.

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

-against-

M-28
Ind. No. 3468/06

Tyrell Baum,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on September 18, 2008 (Appeal No. 4075), unanimously affirming a judgment of the Supreme Court, New York County (Arlene Silverman, J.), rendered on December 5, 2006,

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

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

It is ordered that said application is denied.

ENTER:


Clerk.

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

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
James M. Catterson
Dianne T. Renwick
Helen E. Freedman, Justices.

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

-against-

M-250
Ind. No. 5101/06

Richard Howze,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on December 2, 2008 (Appeal No. 4707), unanimously affirming a judgment of the Supreme Court, New York County (Kirke Bartley, J.), rendered on March 20, 2007,

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

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

It is ordered that said application is denied.

ENTER:


Clerk.

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

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

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

Plaintiffs-Respondents,

-against-

M-2267
Index No. 601475/09

MBIA Inc., et al.,

Defendants-Appellants.

Aurelius Capital Master, Ltd., et al.,

Amicus Curiae.
-----X

Appeal(s) having been taken to this Court from the orders of the Supreme Court, New York County, entered on or about March 3, 2010 and on or about March 10, 2010, respectively,

And Aurelius Capital Master, Ltd., et al., having moved for leave to file a brief and to appear amicus curiae in connection with the aforesaid appeal, and for other relief,

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

It is ordered that the motion is granted only to the extent of deeming the amicus curiae briefs 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 May 13, 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 Support
Proceeding Under Article 4 of the
Family Court Act.

- - - - -
Loretta W.,
Petitioner-Appellant,

-against-

M-1267
Docket No. F-22334/06

Mark A. W.,
Respondent-Respondent.

-----X

Petitioner-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Family Court, Bronx County, entered on or about January 21, 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 May 13, 2010.

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

-----X
Bistro Shop, LLC and Penny Bradley,

Plaintiffs-Respondents,

-against-

M-1094
Index No. 110907/09

N.Y. Park N. Salem Inc.,

Defendant-Appellant.
-----X

Defendant-appellant having moved for an order staying all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about January 11, 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 May 13, 2010.

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

-----X
Escorp Inc.,

Petitioner-Landlord-Respondent,

-against-

Gene Meyers,

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

M-1418
Index No. 570253/09

Petitioner-landlord-respondent having moved for leave to appeal to this Court from the order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about February 11, 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 May 13, 2010.

PRESENT - Hon. David B. Saxe, Justice Presiding,
James M. Catterson
Dianne T. Renwick
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Randi Rhodes, also known as
Randi Robertson,
Plaintiff-Appellant,

-against-

M-1742
Index No. 602906/05

Steven Edward Herz, Carol Perry and
IF Management, Inc.,
Defendants-Respondents.
-----X

Plaintiff-appellant having moved for a stay of the trial in the above-entitled action pending hearing and determination of the appeal taken from an order of the Supreme Court, New York County, entered on or about March 5, 2010 (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 for the November 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided that respondents serve a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:


Clerk.

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

PRESENT: Hon. David Friedman, Justice Presiding,
John W. Sweeny, Jr.
Eugene Nardelli
John T. Buckley, Justices.

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

-against-

M-4460
Ind. No. 4591/93

Juan Pena,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on June 19, 2007 (Appeal No. 1374), unanimously modifying a judgment of the Supreme Court, Bronx County (John Stackhouse, J.), rendered on July 15, 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.

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 May 13, 2010.

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

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

-against-

Tommy Nettles,
Defendant-Appellant.

M-1580
Ind. Nos. 2322N/05
48/09

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgments of the Supreme Court, New York County, rendered on or about March 9, 2009 (Ind. No. 2322N/05) and on or about April 29, 2009 (Ind. No. 48/09), respectively, and for leave to prosecute the appeal(s) as a poor person on the original record(s) and upon a reproduced appellant's brief, 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 deeming the moving papers timely filed notices of appeal, and permitting the appeals to be heard on the original record(s), 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(s), 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(s) or trial(s) and sentence(s). 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, Tel. No. (212) 577-3688 is assigned as counsel for defendant-appellant for purposes of the appeal(s). The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record(s). *Sua sponte* the appeals are consolidated for purposes of hearing.

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 May 13, 2010.

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

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

-against-

M-1613
M-1663
Ind. No. 1043/02

Terrance Scarborough,
Defendant-Appellant.
-----X

Defendant having moved, by serial motions, for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about March 12, 2010, denying resentence, 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 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 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 pursuant to Sec 722 of the County Law. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

ENTER:


Clerk.

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

BEFORE: Hon. Peter Tom
Justice of the Appellate Division

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

Respondent,

-against-

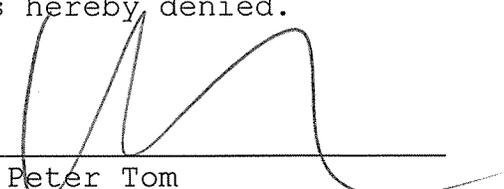
Dino Martinez,

Defendant.
-----X

M-618
Ind. No. 7499/96

CERTIFICATE
DENYING LEAVE

I, Peter Tom, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about December 11, 2009 is hereby denied.



Hon. Peter Tom
Associate Justice

Dated: April 29, 2010
New York, New York

ENTERED

MAY 13 2010

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

BEFORE: Hon. Peter Tom
Justice of the Appellate Division

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

Respondent,

-against-

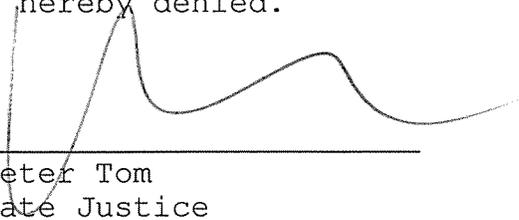
Patrick Kelly,

Defendant.
-----X

M-5541
Ind. No. 6414/03
3459/04

CERTIFICATE
DENYING LEAVE

I, Peter Tom, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about September 28, 2009 is hereby denied.



Hon. Peter Tom
Associate Justice

Dated: April 29, 2010
New York, New York

ENTERED MAY 13 2010

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

BEFORE: Hon. John W. Sweeny, Jr.
Justice of the Appellate Division

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

M-554
Ind. No. 3714/01

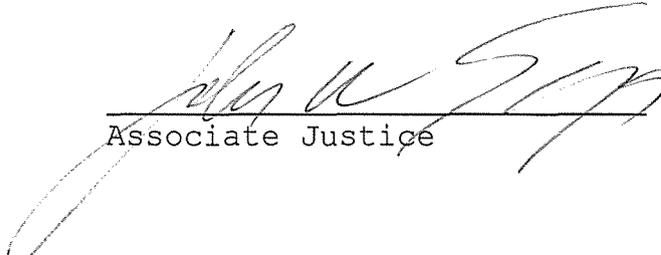
-against-

CERTIFICATE
DENYING LEAVE

Troy Radcliffe, a/k/a Troy Ratcliffe,
Defendant.

-----X

I, John W. Sweeny, Jr., a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, Bronx County, entered on or about December 18, 2009 (Richard Lee Price, J.) is hereby denied.


Associate Justice

Dated: April 28, 2010
New York, New York

ENTERED: **MAY 13 2010**

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

BEFORE: Hon. Dianne T. Renwick
Justice of the Appellate Division

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

Plaintiff,

-against-

Eric Whitfield,

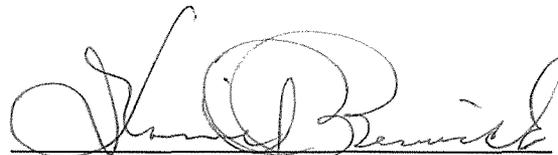
Defendant.

-----X

M- 1712
Ind. No. 5973/02

CERTIFICATE
DENYING LEAVE

I, Dianne T. Renwick, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about December 7, 2009, is hereby denied.



Hon. Dianne T. Renwick
Associate Justice

Dated: *May 5, 2010*
New York, New York

ENTERED: **MAY 13 2010**

MAY 13 2010

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

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

-----x

In the Matter of Jimmie L. Engram,
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-1774
for the First Judicial Department,
Petitioner,

Jimmie L. Engram,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Jimmie L. Engram, was admitted to the Bar of the
State of New York at a Term of the Appellate Division of the
Supreme Court for the First Judicial Department on August 6,
1974.

Alan W. Friedberg, Chief Counsel, Departmental
Disciplinary Committee, New York
(Vitaly Lipkansky, of counsel), for petitioner.

No appearance for respondent.

M-1774 (April 12, 2010)

IN THE MATTER OF JIMMIE L. ENGRAM, AN ATTORNEY

Per Curiam

Respondent Jimmie L. Engram was admitted to the practice of law in the State of New York by the First Judicial Department on August 6, 1974. At all times relevant to this proceeding respondent has maintained an office for the practice of law within the First Judicial Department.

The Departmental Disciplinary Committee now seeks an order pursuant to 22 NYCRR 603.4(e)(1)(i) and (iii), immediately suspending respondent from the practice of law until further order of the Court based upon his failure to cooperate with the Committee's investigation of six complaints filed against him and a notice by the Lawyers' Fund for Client Protection (the Fund) of a dishonored check drawn on respondent's IOLA account, as well as uncontested evidence of professional misconduct which threatens the public interest. Respondent has not submitted opposition to this motion.

In July 2008, the Committee received a notice from the Fund that a check drawn on respondent's IOLA account for \$869.10 had been dishonored. Despite several requests by the Committee, made over a period of months, for a written explanation for this dishonored check, respondent failed to respond until the Committee advised him that his continued failure to respond could

result in an interim suspension. By letter dated November 17, 2008, respondent explained that the overdraft was the result of his mistaken use of his Chase IOLA account instead of his Chase business account to make a payment by telephone to cover an overdraft involving his personal account at HSBC and that his IOLA account had no client funds in it at the time that the check was dishonored. Respondent attributed his delay in responding to his involvement in a federal trial.

The Committee determined that it was necessary to obtain respondent's escrow records but repeated requests by the Committee to respondent for these records went unheeded. The Committee then obtained a subpoena duces tecum from this Court to procure respondent's Chase IOLA records. Once those escrow records were received, the Committee's investigative accountant created Excel spreadsheets in order to reconcile respondent's account, which were then forwarded to respondent with a letter asking him to supply certain missing information. This letter also warned respondent that his continued failure to submit the bank records could, without more, result in his interim suspension. Another follow-up letter to respondent went unanswered.

Thereafter the Committee had respondent served with a subpoena duces tecum, directing him to appear at the Committee and to bring bank records. Respondent did not appear for his

deposition, nor did he contact the Committee. The Committee wrote to respondent giving him another opportunity to appear on a specific date, and warned that his failure to appear would compel the DDC to move for his interim suspension. On the scheduled deposition day, the Committee received a letter by fax from respondent's accountant, along with various ledger documents for respondent's IOLA account which the accountant had prepared, and a representation that respondent would be forwarding bank statements under separate cover. The Committee received from respondent the bank statements previously requested and his "general ledger, checkbook ledger." Using these documents, the Committee's accountant commenced a reconciliation of the IOLA account, but found that there was still some missing information. The Committee forwarded the updated spreadsheets to respondent asking him to fill in the columns marked "Client Matter" for every deposit and disbursement that respondent had yet to identify, and to return the information within 10 days. When the deadline passed and no response was received, the Committee again wrote respondent noting the resumption of his non-cooperation and that if it continued, his interim suspension would be sought. Although respondent was given 10 more days to cooperate, no response or contact was made.

While the Committee was investigating the dishonored check matter, six clients filed complaints against respondent.

In May 2009, the Committee received a complaint from Guy Minto alleging that he had retained respondent about two months earlier for \$2,500 to help him with a "straw" real estate deal, but that respondent had failed to return his phone calls. The Committee made repeated contact with respondent, seeking an answer to the complaint, but respondent did not answer until months later, after the Committee served him with a subpoena directing him to appear and testify. On the morning of the deposition, respondent sent a fax to the Committee consisting of a letter in which he stated that he could not appear "on only two (2) days notice," and asking to reschedule the deposition to a later date. Respondent also answered Minto's complaint, explaining that he was retained by Minto on March 5, 2009 and after spending the entire month of March going through almost 100 pages of documents, he was about ready to complete a summons and complaint when his secretary informed him that Minto wanted his money back. Respondent stated that he did, in fact, try to return Minto's telephone calls but to no avail.

The Committee agreed to reschedule respondent's deposition and obtained a subpoena for respondent's appearance for October 22, 2009 regarding both the dishonored check matter and the Minto complaint. On the day of the deposition, respondent faxed a letter to the DDC asking for an adjournment, stating that he was in the process of retaining counsel. Respondent never appeared

for that deposition and did not ultimately retain counsel.

Patricia Johnson filed a complaint in June 2009 alleging that she had retained respondent to handle an estate matter in December 2008 for \$1,500, but that she had not heard from him since, despite writing and calling his office. Elsie Brown filed a complaint in September 2009 claiming that she had retained respondent in May 2009 to represent her in a contract dispute arising out of a real estate transaction (she was the seller), but that she could not reach respondent for about two months.

The Committee twice sent copies of both complaints to respondent but he did not answer the complaints. Consequently, the Committee obtained a subpoena duces tecum directing respondent to appear for a deposition with respect to the Johnson and Brown complaints and for him to bring the related client files. On the morning of the scheduled deposition respondent did not appear and, instead, faxed a letter stating that he needed another adjournment to retain an attorney. While respondent had previously been granted an adjournment of the deposition in order to retain counsel, respondent now claimed that counsel had "backed out" and he needed "one final adjournment" because he expected to retain someone "after the holidays."

The Committee granted an adjournment, on which date he was either to appear for a deposition or have counsel contact the Committee, and again warned that his failure to cooperate could

lead to a motion for his interim suspension. Respondent did not appear on the adjourned date or otherwise contact the Committee. In a last attempt to secure respondent's appearance, the Committee sent a letter on January 26, 2010, giving respondent to February 8, 2010 to either appear for his deposition or to have counsel contact the DDC, and warning him that the Committee would have "no alternative" but to seek his interim suspension if his non-cooperation persisted. Respondent did not appear on January 26 or communicate with the Committee.

During the investigations of these matters, the Committee re-opened a complaint against respondent from Yvonne Davis which was originally filed in September 2009. Davis had alleged that she had retained respondent to handle an estate planning matter for her in her capacity as a trustee/attorney-in-fact and that respondent had essentially neglected the matter, failing to respond to her communications. Less than one week after Davis filed her complaint, she submitted a letter withdrawing it based on the fact that respondent had contacted her and taken the necessary actions in her case, thus, the Committee had closed the file. However, on October 16, 2009, Davis filed a new complaint against respondent in connection with the same matter, alleging the same problems of neglect and lack of communication. The Committee treated this letter as a request for reconsideration pursuant to 22 NYCRR 605.7[c] and, on December 7, 2009, a Member

of the Committee directed that the investigation be re-opened. Thereafter, the Committee wrote respondent directing him to answer Davis's complaint within 20 days. No response was submitted.

In January 2010, Deryck Solomon filed a complaint against respondent. Because he was stationed in Baghdad, Iraq with the U.S. Army Corp of Engineers, the complaint had been drafted for him by his attorney. According to the complaint, Solomon was concerned that respondent may have misappropriated approximately \$30,000 of Solomon's funds which were being held in escrow pursuant to a settlement of a lawsuit involving a real estate matter in which Solomon was a defendant. The terms of the settlement called for the reimbursement to Solomon of any capital gains tax that may have been due as a result of Solomon's sale of the property, and pending the determination of the amount of the capital gains tax due, Solomon was to hold \$30,000 in escrow. Solomon stated that once the tax amount was determined, the plaintiffs' attorney made a number of unsuccessful attempts to contact respondent to discuss the issue. In June 2009, Solomon replaced respondent with Michael Mondschein, Esq., who was similarly unsuccessful in contacting respondent and who did not receive a response to a June 26, 2009 demand letter seeking the release of Solomon's \$30,000 in escrow funds.

Respondent was sent a copy of Solomon's complaint but he did

not answer. In order to ascertain the integrity of Solomon's funds, the Committee obtained a subpoena for additional records of respondent's IOLA account through February 28, 2010. Based upon a review of all of the documentary evidence, including the records and ledgers submitted by respondent's accountant, the Committee found that respondent's IOLA account did not have a sufficient balance as of February 28, 2010, and, that therefore, respondent had misappropriated Solomon's funds. Specifically, the records demonstrate that respondent deposited Solomon's \$30,000 into his IOLA account on August 5, 2008 and no disbursements were made to either Solomon or the plaintiff in the settled lawsuit through February 28, 2010. Moreover, although the balance in the IOLA account should have been, at a minimum, \$30,000 through February 28, 2010, the bank balance fell below that amount on May 7, 2009, when respondent wrote a check payable to "cash" in the amount of \$115,000, which he also endorsed, resulting in an escrow balance of only \$1,950.91 (since respondent never provided certain information regarding his escrow account, it is not known for what purpose respondent used the \$115,000 check). Respondent issued two additional IOLA checks payable to himself, one on May 8, 2009 for \$1,800, and the other on July 15, 2009 for \$140, leaving a balance in the account of \$10.91.

The final complaint that is the subject of this motion was

filed in February 2010 by Jubae Mujahid, who alleges a conflict of interest in that respondent represented her in several real estate transactions at the same time that he represented another party in the transactions, and that respondent also had personal business interests in those transactions, some of which he did not disclose to Mujahid. Respondent was sent a copy of this complaint on March 9, 2010, and was given 10 days to submit a response but no answer was received.

Immediate suspension on an interim basis is appropriate where there is uncontested evidence of professional misconduct (22 NYCRR 603.4(e)(1)(iii); *Matter of Benzing*, 43 AD3d 163 [2007]). The Committee has presented uncontested evidence that indicates respondent has neglected legal matters entrusted to him in violation of DR 6-101(A)(3) [now RPC 1.3(b)]¹, represented a client despite a conflict of interest in violation of DR 5-105 [now RPC 1.7], and mishandled and misappropriated escrow funds in violation of DR 9-102 [now RPC 1.15]. Additionally, respondent's failure to cooperate with the Committee's investigation of these matters and to respond to this motion, demonstrates a willful noncompliance with a Committee investigation and threatens the public interest warranting an interim suspension pursuant to 22 NYCRR 603.4(e)(1)(i) (see *Matter of Kaplan*, 49 AD3d 107

¹Both the prior and current ethics rules are cited because some of respondent's alleged misconduct occurred during the time period when the old rules were in effect and some after April 2009 when the current rules went into effect.

[2008]).

Accordingly, the motion pursuant to 22 NYCRR 603.4(e)(1)(i) and(iii) should be granted and respondent suspended from the practice of law, effective immediately, and until such time as the disciplinary proceedings against respondent are concluded, and until further order of this Court.

All concur.

Order filed.

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

MAY 13 2010

David B. Saxe, Justice Presiding,
James M. Catterson
Karla Moskowitz
Helen E. Freedman
Nelson S. Román, Justices.

-----x

In the Matter of Kurt G. Ligos,
a suspended attorney:

Departmental Disciplinary Committee M-834
for the First Judicial Department,
Petitioner,

Kurt G. Ligos,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Kurt G. Ligos, was admitted to the Bar of the
State of New York at a Term of the Appellate Division of
the Supreme Court for the First Judicial Department on
August 4, 1997.

Alan W. Friedberg, Chief Counsel, Departmental
Disciplinary Committee, New York
(Naomi F. Goldstein, of counsel), for petitioner.

No appearance for respondent.

M-834

March 9, 2010

IN THE MATTER OF KURT G. LIGOS, A SUSPENDED ATTORNEY

Per Curiam

Respondent Kurt G. Ligos was admitted to the practice of law in the State of New York by the First Judicial Department on August 4, 1997. He was previously admitted to practice in the State of New Jersey in 1996 (where he resides and practiced law).¹

By order entered November 10, 2009, this Court suspended respondent as a result of his failure to register with the Office of Court Administration ("OCA") since the biennial period 1999-2000, violating Judiciary Law § 468-a. The Departmental Disciplinary Committee ("Committee") now seeks an order, pursuant to 22 NYCRR 603.3, disbarring respondent, predicated upon similar discipline imposed by the Supreme Court of New Jersey (see *Matter of Ligos*, 200 NJ 280 [2009]).

On September 16, 2009, respondent executed a consent to disbarment and submitted it to the New Jersey Office of Attorney Ethics. In this sworn consent, respondent stated that he was aware that there was a pending investigation against him in which he was charged with the knowing misappropriation of client trust funds/escrow funds/fiduciary funds. Further, respondent

¹ Respondent, pro se, has not appeared in this proceeding.

acknowledged "that these allegations are true and if [he] went to a hearing on this matter, [he] could not successfully defend himself against those charges". Finally, respondent averred the following:

I am consenting to disbarment with the understanding that, although this document will become a matter of public record if accepted by the Court, it may not be entered into evidence in any legal proceeding as an admission or as giving rise to an inference of wrong doing, other than in a disciplinary or Lawyer's Fund for Client Protection proceeding in this or any other jurisdiction (emphasis added).

On October 15, 2009, the Supreme Court of New Jersey issued its order disbaring respondent from the practice of law effective immediately (*Matter of Ligos, supra*). This order provides the basis of the Committee's reciprocal discipline petition.

Now, in seeking an order pursuant to 22 NYCRR 603.3, the Committee correctly argues that respondent is precluded from raising any defenses except that: (1) there was a lack of notice or opportunity to be heard constituting a deprivation of due process; (2) there was an infirmity of proof presented to the foreign jurisdiction; or (3) that the conduct for which the attorney was disciplined in the foreign jurisdiction does not constitute misconduct in this jurisdiction (see 22 NYCRR 603.3[c]; *Matter of Ball*, 69 AD3d 149 [2009]; *Matter of Rogge*, 51 AD3d 367 [2008]; *Matter of Glatman*, 47 AD3d 230 [2007]). Respondent has been properly served but has not replied to the

petition.

A review of the petition and its annexed exhibits establishes that respondent was afforded due process and there was sufficient evidence to establish his misconduct. Respondent's admission in his consent to disbarment that he could not successfully defend against the charges establishes that no infirmity of proof exists. Furthermore, respondent's admitted misconduct of knowingly misappropriating client/fiduciary funds in his possession would clearly constitute misconduct in New York (see *Matter of Rumore*, 63 AD3d 1 [2009] [reciprocal discipline imposed where attorney consented to disbarment in New Jersey based upon his knowing misappropriation of funds]; *Matter of Gentile*, 46 AD3d 53 [2007] [same consent to disbarment in New Jersey and misconduct]; *Matter of Vogel*, 282 AD2d 160 [2001] [same]).

Accordingly, as no defense has been presented or exists, the Committee's petition for an order pursuant to the doctrine of reciprocal discipline should be granted. As to the appropriate sanction, it is generally accepted that the state where an attorney lived and practiced law at the time of the offense has the greatest interest in the matter and in the public policy considerations relevant to the disciplinary action (see *Ball*, 69 AD3d at 152; *Rumore*, 63 AD3d at 3; *Matter of Dranov*, 14 AD3d 156, 163 [2004]). Therefore, great weight should be accorded to the

sanction administered by the state where the charges were originally brought (*Gentile*, 46 AD3d at 55; *Matter of Harris*, 37 AD3d 90, 93 [2006]).

In this matter, New Jersey disbarred respondent from the practice of law. As no reason has been offered to depart from the sanction New Jersey imposed, and as disbarment is consistent with this Court's precedent for similar misconduct (see e.g. *Matter of Crescenzi*, 51 AD3d 230 [2008]; *Matter of Sheehan*, 48 AD3d 163 [2007]), reciprocal discipline is appropriate and is squarely in accord with this Court's precedent on matters involving identical proceedings from New Jersey as the instant one (see *Rumore* at 4; *Gentile* at 55).

Accordingly, the petition for an order pursuant to the doctrine of reciprocal discipline should be granted (see 22 NYCRR 603.3), and respondent disbarred and his name stricken from the roll of attorneys and counselors-at-law.

All concur.

Order filed.

PM ORDERS

ENTERED

MAY 11, 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 May 11, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David Friedman
Eugene Nardelli
Rolando T. Acosta
Sheila Abdus-Salaam, Justices.

-----x
William Boyle and Donna Boyle,
Plaintiffs-Respondents-Appellants,

-against-

The City of New York,
Defendant.

M-2518
Index No. 17227/02

- - - - -
The City of New York,
Third-Party Plaintiff,

-against-

Hougen Manufacturing, Inc.,
Third-Party Defendant-Appellant-
Respondent.

-----x

An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about October 27, 2009,

And third-party defendant-appellant having moved, on consent, for a stay of trial herein pending hearing and determination of the aforesaid appeal and cross appeal,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated May 5, 2010, 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 May 11, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
James M. McGuire
Karla Moskowitz
Helen E. Freedman, Justices.

-----X
Sureeva Stevens,
Plaintiff-Respondent,

-against-

M-2220
Index No. 104978/08

Lincoln Center for the Performing Arts
Inc.,
Defendant-Appellant-Respondent,

Restaurant Services, Inc. and Compass
Group USA, Inc.,
Defendants-Respondents-Appellants.
-----X

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

And defendants-respondents-appellants having moved for leave to file a substitute replacement brief that replies to both plaintiff's-respondent's Sureeva Stevens brief and defendant-appellant-respondent Lincoln Center for the Performing Arts Inc.'s 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 deeming the brief filed by defendants-respondents-appellants dated April 9, 2010 accepted for filing nunc pro tunc, with leave to defendant-appellant-respondent Lincoln Center for the Performing Arts Inc. to file points in response to the arguments therein on or before May 11, 2010. 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 May 11, 2010.

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

-----x

Ralph W. Kern, et al.,
Petitioners-Respondents/Appellants,

-against-

M-1635
Index No. 107144/09

Excelsior 57th Corp., LLC,
Respondent-Appellant/Respondent.

-----x

An appeal having been taken to this Court by respondent from an order and judgment (one paper) of the Supreme Court New York County, entered on or about November 30, 2009 (mot. seq. no. 001) and an appeal having been taken by petitioners from the order of said Court entered on or about January 8, 2010 (mot. seq. no. 002), respectively,

And petitioners having moved for consolidation of the aforesaid appeals, and related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeals to be heard upon 10 copies of a joint record. The parties are directed to serve and file separate briefs with respect to each of the appeals which are to be perfected on or before July 12, 2010 for the September 2010 Term.

ENTER:



Clerk.

PM ORDERS

ENTERED

MAY 13, 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 May 13, 2010.

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

-----X

In re the State of New York,
Petitioner-Appellant,

M-839

-against-

Index No. 30210/08

Mustafa Rashid,
Respondent-Respondent.

-----X

An order of this Court having been entered on February 16, 2010 (M-5825/M-8) inter alia, denying petitioner-appellant's motion for leave to appeal to the Court of Appeals from the decision and order of this Court entered on December 22, 2009 (Appeal No. 1227), and denying respondent-respondent's cross motion for vacatur of any stay with respect to his release from custody, or for related relief, as moot,

And respondent-respondent having moved for clarification and/or reconsideration of the aforesaid order of this Court entered February 16, 2010 (M-5825/M-8), or 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 deleting the provision of aforesaid order of this Court entered on February 16, 2010 (M-5825/M-8) denying the cross motion as moot, and replacing it with the provision that the cross motion is denied (CPLR 5519[e]). 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 in the County of New York on May 13, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David Friedman
Eugene Nardelli
Rosalyn H. Richter, Justices.

-----X
CDR Creances S.A., as Successor to
Societe De Banque Occidentale,
Plaintiff-Respondent,

-against-

M-2399

Index No. 109565/03

Maurice Cohen, et al.,
Defendants-Respondents,

Gleason & Koatz and James P.
Gleason,
Non-Party Appellants.

-----X
CDR Creances S.A., as Successor to
Societe De Banque Occidentale,
Plaintiff-Respondent,

-against-

Index No. 600448/06

Leon Cohen, also known as Leon Levy,
etc., et al.,
Defendants-Respondents,

Gleason & Koatz and James P.
Gleason,
Non-Party Appellants.

-----X
An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 29, 2010,

And non-party appellants having moved for a stay of deposition pending hearing and determination of the aforesaid appeal,

And an order of a Justice of this Court, dated April 29, 2010, having granted non-party appellants interim relief, pending hearing and determination of the instant motion, on certain conditions,

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 stay deposition is denied and so much of the interim order of a Justice of this Court, dated April 29, 2010, which stayed deposition is vacated. So much of the interim order with respect to the examination of James P. Gleason and the supervision thereof by Supreme Court is continued.

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive, flowing style.

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 May 13, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David Friedman
Leland G. DeGrasse
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----X
Brentwood Pain & Rehabilitation
Services, P.C., et al.,
Plaintiffs-Respondents,

M-2200
Index No. 109805/04

-against-

Progressive Insurance Company, et al.,
Defendants-Appellants.

-----X
Progressive Insurance Company, et al.,
Third-Party Plaintiffs-Appellants,

Third-Party
Index No. 591076/04

-against-

Richard Lee, D.C., et al.,
Third-Party Defendants-Respondents.

-----X

Defendants/third-party plaintiffs-appellants having taken appeals from the orders of the Supreme Court, New York County, entered on or about November 4, 2009 (mot. seq. no. 007) and on or about March 23, 2010, respectively,

And defendants/third-party plaintiffs-appellants having moved for consolidation of the aforesaid appeals, for a stay of trial pending hearing and determination of said appeals, and for a preference in the hearing of said 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, to the extent it seeks consolidation of the aforesaid appeals is granted. So much of the motion which seeks a stay of trial is granted on condition

the consolidated appeals are 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 respondents serve a copy of this order upon appellants within 10 days after the date of entry hereof. Appellants are permitted to prosecute the consolidated appeals upon 10 copies of one record and of one set of appellant's points covering said appeals. So much of the motion which seeks a preference in the hearing of the appeals is denied.

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive style with a large, sweeping 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 May 13, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
James M. McGuire
Karla Moskowitz, Justices.

-----X
Oxford Information Technology, Ltd.,
Plaintiff-Appellant,

-against-

M-1867

Index No. 602481/07

Novantas LLC, et al.,
Defendants-Respondents.

-----X
Novantas LLC,
Counterclaim Plaintiff,

-against-

Raymond Greenhill,
Additional Counterclaim
Defendant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 5, 2010, which denied plaintiff's motion to modify a so-ordered stipulation entered on or about March 31, 2008,

And plaintiff-appellant having moved for an order pursuant to CPLR 5518 and 5519 staying enforcement of the aforesaid order entered on or about March 5, 2010 denying modification of the so-ordered stipulation therein, and for related relief,

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

It is ordered that the motion is granted on condition that the proposed data restrictions detailed in Paragraph 13 of the

affirmation to the moving papers of Daniel B. Goldman, Esq., be instituted and maintained, and on condition that, within 20 days of this order, appellant posts an undertaking in the amount of \$100,000, and on the further condition that appellant perfects the appeal on or before August 9, 2010 for the October 2010 Term. Upon failure to meet any of these conditions or to so perfect, an order vacating the stay may be entered ex parte, provided that respondents serve a copy of this order upon appellant within 10 days after the date of entry hereof.

ENTER:

A handwritten signature in black ink, reading "David Apobony". The signature is written in a cursive style with a large, sweeping 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 May 13, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
David Friedman
Leland G. DeGrasse
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----X
J. Aron & Company,
Plaintiff-Respondent,

-against-

M-2271
Index No. 603225/08

Controladora Comercial Mexicana S.A.B.
DE C.V.,
Defendant-Appellant.

-----X
Barclays Bank PLC,
Plaintiff-Respondent,

-against-

M-2274
Index No. 603233/08

Controladora Comercial Mexicana S.A.B.
DE C.V.,
Defendant-Appellant.

-----X
JPMorgan Chase Bank, N.A.
Plaintiff-Respondent,

-against-

M-2276
Index No. 603215/08

Controladora Comercial Mexicana S.A.B.
DE C.V.,
Defendant-Appellant.

-----X
Merrill Lynch Capital Markets AG and
Merrill Lynch Capital Services, Inc.,
Plaintiffs-Respondents,

-against-

M-2277
Index No. 603214/08

Controladora Comercial Mexicana S.A.B.
DE C.V.,
Defendant-Appellant.

-----X

Defendant-appellant Controladora Comercial Mexicana S.A.B. DE C.V. having moved for an order staying any Referee hearing in the above-entitled actions pending hearing and determination of the appeals taken from the orders of the Supreme Court, New York County, entered on or about March 18, 2010,

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 denied and the interim relief granted by the orders of a Justice of this Court dated April 22, 2010 is hereby vacated.

ENTER:

A handwritten signature in black ink, reading "David Apalony". The signature is written in a cursive style with a large initial "D" and a long, sweeping tail.

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 May 13, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
James M. McGuire
Karla Moskowitz
Helen E. Freedman, Justices.

-----X
Morgan Stanley & Co., Inc.,
Plaintiff-Respondent,

-against-

M-2439
Index No. 602459/09

Michelle Feeley,
Defendant-Appellant.

-----X

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

And respondent having moved to strike petitioner's Appendix and for sanctions, and for other relief,

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

Ordered that the motion is denied.

ENTER:



Clerk.

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

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

-----X
Leonard Salati,
Plaintiff-Appellant-Respondent,

-against-

M-2067 M-2411
Index No. 101999/05

Janet Jackson, et al.,
Defendants-Respondents,

10th Avenue Hospitality Group, LLC,
doing business as Club Marquee,
Defendant-Respondent,

Knight Time Security of New York,
Inc., doing business as
Titan Security, Inc.,
Defendant-Respondent-Appellant.

-----X
Janet Jackson, et al.,
Third-Party Plaintiffs-Respondents,

-against-

Third-Party
Index No. 590793/05

10th Avenue Hospitality Group, LLC,
doing business as Club Marquee,
Third-Party Defendant-Respondent,

Knight Time Security of New York,
Inc., doing business as
Titan Security, Inc.,
Third-Party Defendant-Appellant.

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 25, 2009, and an appeal having been taken from the order of said Court entered on or about November 19, 2009,

And an order of this Court having been entered on April 20, 2010 (M-1005) dismissing the motion of defendant-respondent-appellant/third party defendant-appellant Knight Time Security of New York, Inc. as academic and vacating a stay of proceedings in Supreme Court ordered by a Justice of this Court on February 25, 2010,

And defendant-respondent-appellant/third party defendant-appellant Knight Time Security of New York, Inc. having moved for a consolidation of the appeals taken by movant and for an enlargement of time in which to perfect same (M-2067),

And said Knight Time Security of New York, Inc. having moved by separate motion for vacatur of the aforesaid order of this Court entered on April 20, 2010 and staying further proceedings in Supreme Court pending hearing and determination of all the appeals herein (M-2411),

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

Ordered that the order of this Court entered on April 20, 2010 (M-1005) is herewith recalled and vacated and movants motion for a stay of proceedings in Supreme Court is denied (M-2411) and it is further

Ordered that the appeal and cross appeal and the appeal herein are consolidated to the extent of permitting the parties to prosecute the appeals upon 10 copies of one record and of one set of respective appellant's points covering the appeals and cross appeal and enlarging the time in which to perfect the consolidated appeals to the November 2010 Term (M-2067). 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:

A handwritten signature in black ink, reading "David Apobony". The signature is written in a cursive, flowing style.

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 May 13, 2010.

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

-----X

In the Matter of the Application of

Mercedes Casado, et al.,
Petitioners-Respondents,

-against-

M-2305

Index No. 402267/08

Marvin Markus, as Chair of the
New York City Rent Guidelines Board,
Respondent-Appellant.

-----X

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

And an order of this Court having been entered April 15, 2010 (M-1072/M-1619) inter alia declaring that no stay of judgment on appeal pursuant to CPLR 5519(a)(1) was in effect,

And respondent-appellant having moved for renewal and/or reargument of the aforesaid order (M-1072/M-1619),

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 granting reargument and upon reargument so much of defendant-appellant's cross-motion seeking a discretionary stay pursuant to CPLR 5519(c) is denied without prejudice to the post appeal rights or remedies of the respective parties.

ENTER:



Clerk.