

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 20, 2010.

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

-----X
Dionne Charles, as Administratrix
of the Estate of Kayla Kesse Madison
Charles, deceased infant and Dionne
Charles, Individually,
Plaintiffs-Respondents,

-against-

M-1996X
Index No. 18660/05

Chaisurat Suvannavejh, M.D.,
Fergal D. Malone, M.D., Michale J.
Orofino, M.D., Elizabeth Riley, R.N.,
Susant Zuccherro, R.N. and Lawrence
Hospital Center,
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about December 24, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" April 12, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 20, 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-2034
Ind. No. 2114/00

Eddy Rosario,
Defendant-Appellant.

-----X

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

Now, upon reading and filing the stipulation of the parties hereto, filed April 13, 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It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.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 20, 2010.

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

-----X
Olegario Batiz,
Plaintiff-Respondent,

-against-

M-2070X
Index No. 306910/08

Jose H. Rivera and Professional
Charter Service, Inc.,
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about December 16, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" April 13, 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 20, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
James M. McGuire
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

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

Respondent,

-against-

M-1566
SCI No. 2221/03

Luis Mantilla,

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 February 16, 2010 (Appeal No. 2103),

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 20, 2010.

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

-----X
The People of the State of New York
ex rel. Joseph Watson,

Petitioner,

M-880
Ind. No. 5277/03

-against-

Darwin E. Laclair, Superintendent
of Franklin Correctional Facility,

Respondent.
-----X

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

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

It is ordered the motion is denied, and the application dismissed. So much of the motion which seeks poor person relief is denied, as academic.

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 20, 2010.

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

-----X
Best Buy Co., Inc., Yuco Real Estate
Company, Inc., Schimenti Construction
Company, LLC. and Transcontinental
Insurance Company,
Plaintiffs-Appellants-Respondents,

-against-

M-1410
Index No. 600781/06

Utica National Insurance Company,
formerly known as Utica National
Assurance Company,
Defendant-Respondent-Appellant,

-and-

Sage Electrical Contracting, Inc.,
Defendant.

-----X

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

And defendant-respondent-appellant having moved for an enlargement of time in which to perfect their cross appeal,

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

Ordered that the motion is denied as moot, said relief having been granted to movant by the order of this Court entered on April 22, 2010 (M-1112).

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 20, 2010.

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

-----X
Marie Mappa,

Plaintiff-Appellant,

-against-

M-1202

M-1273

Index No. 14677/04

New York Yankees Partnership, Ltd.,
et al.,

Defendants-Respondents.
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about April 1, 2009,

And defendant-respondent New York Yankees Partnership, sued herein as New York Yankees Partnership, Ltd., having moved for an order dismissing the aforesaid appeal (M-1202),

And defendants-respondents Volume Services, Inc. and Center Plate of South Carolina, LLC having cross-moved for the aforesaid relief (M-1273),

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 and the appeal is dismissed.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

-----X
Alisher Karimov,

Plaintiff-Appellant,

-against-

M-360
Index No. 600095/09

Moe Yaghoubi, et al.,

Defendants-Respondents.
-----X

Defendants-respondents, Moe Yaghoubi and Alcon Builders Group, Inc., having moved to dismiss plaintiff's appeal taken from the order of the Supreme Court, New York County, entered on or about October 26, 2009 (mot. seq. no. 005),

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

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

Present - Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
Karla Moskowitz
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----x
Felicia Pickett Johnson and Ikea
Johnson,
Plaintiffs-Appellants,

For a Judgment, etc., M-1908
Index No. 251305/08

-against-

New York City Board of Education,
Defendants-Respondents.
-----x

An appeal having been taken to this Court from orders of the Supreme Court, Bronx County, entered on or about February 5, 2009,

And an order of this Court having been entered on August 18, 2009 (M-2844), denying plaintiffs-appellants' application for poor person relief, with leave to renew, as indicated; and an order of this Court having been entered on December 10, 2009 (M-4399), denying plaintiffs' renewed motion for poor person relief,

And plaintiffs-appellants having again renewed their motion for leave to prosecute the appeal as a poor person, 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 and, sua sponte, the appeal is dismissed.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

-----X
Eric Benn,
Plaintiff-Appellant,

-against-

Stefan Benn, et al.,
Defendants-Respondents.

M-1455
M-1533
Index No. 102344/07

-----X
An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 30, 2009 (mot. seq. no. 003),

And defendants-respondents having moved for an order dismissing the aforesaid appeal (M-1455),

And plaintiff having cross-moved for an order deeming plaintiff's notice of appeal timely filed (M-1533),

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 defendants-respondents' motion to dismiss plaintiff's appeal is denied. Plaintiff's cross motion is granted and plaintiff's notice of appeal is deemed timely filed pursuant to CPLR §5520(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 May 20, 2010.

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

-----X
Ellenoff Grossman & Schole LLP,
Petitioner-Respondent,

-against-

Ludmilla & Lana Zinger,
Respondents-Appellants.
-----X

M-1258

M-1493

Index No. 110189/09

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about December 4, 2009 (mot. seq. no. 001) inter alia confirming an arbitration award and from the judgment entered thereon on or about January 29, 2010,

And respondents-appellants having moved, by separate motions, for a stay of enforcement of the judgment pending hearing and determination of the appeal (M-1258), and for leave to prosecute said appeal as a poor person(s) (M-1493),

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

It is ordered that the motion for a stay is denied, and the interim relief granted by an order of a Justice of this Court, dated March 9, 2010, is vacated (M-1258). The motion for poor person relief (M-1493) is granted with respect to Ludmilla Zinger only to the extent of permitting her 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 attorney for petitioner-respondent and file 10 copies of such brief, together with the original record, with this Court. Appellant Ludmilla Zinger is permitted to dispense with payment of the required fee for the subpoena and 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 20, 2010.

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

-----X
In the Matter of

Isaac F.,

A Person Alleged to Be a Juvenile
Delinquent,

M-1309
Docket No. D536/09

Respondent-Appellant.
-----X

Respondent-appellant having moved for leave to prosecute the appeal from the order of the Family Court, New York County, entered on or about August 21, 2009, as a poor person, for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Section 35 of the Judiciary Law and Section 1120 of the Family Court Act, Seth M. Kaufman, Esq., 61 Broadway, Suite 2125, New York, NY 10006, Telephone No. (646) 249-4416, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the State of New York from funds available therefor;¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


Clerk

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

-----X
In the Matter of

Terron B.,

M-1310

A Person Alleged to Be a Juvenile Delinquent,
Respondent-Appellant.
-----X

Docket No. D14793/08

Respondent-appellant having moved for leave to prosecute the appeal from the order of the Family Court, New York County, entered on or about July 13, 2009, as a poor person, for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Section 35 of the Judiciary Law and Section 1120 of the Family Court Act, Steven N. Feinman, Esq., 19 Court Plaza, Suite 201, White Plains, NY 10601, Telephone No. (914) 949-8214, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the State of New York from funds available therefor;¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


Clerk

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

-----X
In the Matter of

Cisely G.,

A Person Alleged to Be a Juvenile
Delinquent,

M-1453
Docket No. D1821/09

Respondent-Appellant.
-----X

Respondent-appellant having moved for leave to prosecute the appeal from the order of the Family Court, Bronx County, entered on or about February 22, 2010, as a poor person, for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Section 35 of the Judiciary Law and Section 1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, Telephone No. (603) 313-1951, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the State of New York from funds available therefor;¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


Clerk.

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 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
ex rel. Gaetano D'Attore,

Petitioner,

-against-

M-341
Ind. No. 593/09

Juan Quinonez, Warden, Otis Bantum
Correctional Center, Rikers Island
Correctional Facility,

Respondent.
-----X

The above-named petitioner having moved for a writ of habeas corpus to be issued from this Court, for poor person relief and for the assignment of counsel,

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

It is ordered that so much of the motion which seeks a writ of habeas corpus, is denied and dismissed as a successive writ (CPLR 7003[b]), without prejudice to the consideration of the Supreme Court, Bronx County of petitioner's pending writs of habeas corpus before said Court. So much of the motion which seeks poor person relief and the assignment of counsel is denied, as academic.

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 20, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
James M. McGuire
Sallie Manzanet-Daniels, Justices.

-----X
Ulrich Suss,

Plaintiff-Appellant,

-against-

M-826
Index No. 106052/08

New York Media, Inc., et al.,

Defendants-Respondents.
-----X

Plaintiff-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on January 5, 2010 (Appeal No. 1931-1932),

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 20, 2010.

Present: Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
James M. McGuire
Leland G. DeGrasse
Helen E. Freedman, Justices.

-----X
In re Eddy Marte, et al.,
Petitioners,

-against-

M-1547
Index No. 2420/08

Hon. Carol Berkman, etc., et al.,
Respondents.

-----X

Petitioners having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on February 16, 2010 (Appeal No. 1062),

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 denied petitioner's writ of prohibition and dismissed the Article 78 proceeding, 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.

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 20, 2010.

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

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

Arelis Carmen S.,
Petitioner-Respondent,

-against-

M-1262
Docket Nos. V-03654-99/06G
V-03655-99/06

Daniel H.,
Respondent-Appellant.
-----X

Petitioner-respondent having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, New York County, entered on or about July 13, 2009, and for the assignment of counsel,

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

It is ordered that the motion is granted to the extent of (1) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorneys for respondent-appellant and 10 copies thereof are to be filed with this Court, and (2) assigning, pursuant to Section 18b of the County Law and § 1120 of the Family Court Act, Frederic P. Schneider, 40 Wall Street, 28th Floor, New York, NY 10005, Telephone No. (646) 512-5730, as counsel for purposes of responding to the appeal.

ENTER:


Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 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

Angel W.,

A Person Alleged to Be a Juvenile
Delinquent,
Respondent-Appellant.

M-1249
Docket No. D17399/09

-----X

Respondent-appellant having moved for leave to prosecute the appeal from the order of the Family Court, New York County, entered on or about January 27, 2010, as a poor person, for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Section 35 of the Judiciary Law and Section 1120 of the Family Court Act, Patricia Jellen, Esq., 245 Park Drive, Eastchester, NY 10709, Telephone No. (914) 793-7534, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the State of New York from funds available therefor;¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


Clerk

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

-----X

In the Matter of

Erica D.,

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

M-694A
Docket No. B16813/08

- - - - -
New Alternatives for Children, Inc.,
et al.,
Petitioners-Respondents,

Maria D.,
Respondent-Appellant.

- - - - -

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

-----X

Respondent-appellant mother 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 January 5, 2010, and for assignment of counsel, a free copy of the transcript, and related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, George Reed, Esq., 222 Mamaroneck Ave., White Plains, NY 10605, Telephone No. (914) 946-5000, as

counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor¹ within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order and; (4) directing appellant to perfect this appeal within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court. The order of this Court entered on April 27, 2010 (M-694) is hereby recalled and vacated.

ENTER:


Clerk.

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

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

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

-against- M-1209
Ind. No. 3876/07

Thor Corbin,
Defendant-Appellant.

-----X

An order of this Court having been entered on May 12, 2009 (M-1808) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about March 23, 2009,

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

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

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

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

-against- M-1283
Ind. No. 4596/06

Lee Carr,
Defendant-Appellant.

-----X

An order of this Court having been entered on August 18, 2009 (M-3316) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about June 10, 2009,

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

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

It is ordered that the motion is granted to the extent of striking the designation of assigned counsel Richard M. Greenberg, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center For Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. (212)577-2523, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

Enter:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

-----X
Warburg, Pincus Equity Partners, L.P.,

Plaintiff-Respondent,

-against-

M-1341
Index No. 602626/03

Michael David Keane,

Defendant-Appellant.
-----X

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal taken from the judgment of the Supreme Court, New York County, entered on or about December 21, 2007, and thereafter modified by the order of the Supreme Court entered on or about May 1, 2009, pursuant to an order of this Court entered on April 23, 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 20, 2010.

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

-----X
Ramon Perez and Francia Rodriguez,
Plaintiffs-Respondents,

-against-

M-1486

M-1766

Wendell Jordan,
Defendant,

Index No. 6779/02

Shirley Roberts,
Intervenor-Appellant.

-----X

An appeal having been taken from the order and judgment (one paper) of the Supreme Court, Bronx County, entered on or about December 28, 2009,

And an order of this Court having been entered on March 11, 2010 (M-588), denying intervenor-appellant a stay of execution of the aforesaid order and judgment (one paper) of the Supreme Court,

And intervenor-appellant having moved for reargument of the aforesaid order of this Court (M-1486),

And plaintiffs-respondents having cross-moved for an order compelling intervenor-appellant to perfect her appeal on an expedited basis (M-1766),

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 appellant's motion for reargument (M-1486) is denied. Plaintiffs' cross motion to compel appellant to perfect (M-1766) is granted to the extent of directing appellant to perfect her appeal on or before August 9, 2010 for 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 20, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Karla Moskowitz
Nelson S. Román, Justices.

-----X
Marta Lopez,
Plaintiff-Respondent-Appellant,

-against-

M-1344
Index No. 7117/04

Fordham University,
Defendant-Appellant-Respondent.

Fordham University,
Third-Party Plaintiff-Appellant,

-against-

Index No. 84622/05

Turner Construction Company,
Third-Party Defendant-Respondent.

Turner Construction Company,
Second Third-Party Plaintiff-
Respondent,

-against-

Index No. 85067/06

Olympic Plumbing & Heating Corporation,
Second Third-Party Defendant-
Respondent.

-----X

Defendant/third-party plaintiff appellant Fordham University having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on January 28, 2010 (Appeal No. 2058),

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 20, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
Karla Moskowitz
Sheila Abdus-Salaam, Justices.

-----X
Davin Dessasore,

Plaintiff-Respondent-Appellant,

-against-

M-1830
Index No. 16097/04

New York City Housing Authority,

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

Plaintiff-respondent-appellant having moved for reargument of the decision and order of this Court entered on February 9, 2010 (Appeal No. 1697),

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 20, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
Eugene Nardelli
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Nicole Benjamin,
Plaintiff-Appellant,

-against-

M-1771
Index No. 7464/04

Julio Teixeira, M.D., et al.,
Defendants-Respondents.
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about May 6, 2009,

And plaintiff-appellant having moved for an enlargement of time in which to perfect the aforesaid appeal,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Stephan D. Chakwin, Jr., dated April 5, 2010, and due deliberation having been had thereon, it is

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

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

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

-----X
City of Tallahassee Retirement System,
Plaintiff-Appellant,

-against-

Daniel F. Akerson, Charlene Barshefsky,
Ursula M. Burns, Kenneth I. Chenault,
Jan Leschly, Richard A. McGinn, Edward
D. Miller, Robert C. Levin, Steven S.
Reinemund, Ronald A. Williams, Frank P.
Popoff, Peter R. Dolan, William G. Bowen,
F. Ross Johnson, Edwin L. Artzt, Robert L.
Crandall, Harvey Golub, Drew Lewis and
American Express Company,
Defendants-Respondents.

M-1739
Index No. 601535/08

-----X
Defendant-respondent American Express Company having moved for dismissal of the appeal taken from a judgment of the Supreme Court, New York County, entered on or about November 9, 2009,

Now, upon reading and filing the papers with respect to the motion, including the stipulation between the parties filed April 7, 2010, and due deliberation having been had thereon,

It is ordered that the motion and the appeal are 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 20, 2010.

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

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

Neighborhood in the Nineties, Inc.,
et al.,

Petitioners-Appellants,

M-1823

Index No. 115705/07

For a Judgment, etc.,

-against-

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

-----X

Non-municipal respondents-respondents having moved for an order dismissing petitioners-appellants' appeal taken from the order of the Supreme Court, New York County, entered on or about August 27, 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 to dismiss the appeal is granted unless the appeal is perfected on or before July 12, 2010 for the September 2010 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondents serve a copy of this order upon the appellants within 10 days after the date of entry hereof.

ENTER:


Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 20, 2010.

Present: Hon. Eugene Nardelli, Justice Presiding,
Rolando T. Acosta
Dianne T. Renwick
Helen E. Freedman, Justices.

-----X
James Brady, et al.,
Plaintiffs-Appellants,

-against-

M-1595
Index No. 603741/07

450 West 31st Owners Corp.,
Defendant-Respondent,

Extell Development Company, et al.,
Defendants.

-----X

Plaintiffs-appellants 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 February 11, 2010 (Appeal No. 2137-2138),

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.

PM ORDERS

ENTERED

MAY 18, 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 18, 2010.

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

-----X
Corlette O'Bryan, et al.,
Plaintiffs-Appellants,

-against-

M-1772

Index No. 303293/09

Martha E. Stark, as Commissioner
of the New York City Department of
Finance, et al.,
Defendants-Respondents.

-----X

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

And plaintiffs-appellants having moved for a stay of eviction 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 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 respondents serve a copy of this order upon appellants within 10 days after the date of entry hereof.

ENTER:



Clerk.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 18, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
James M. McGuire
Leland G. DeGrasse
Helen E. Freedman
Rosalyn H. Richter, Justices.

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

Plaintiff-Appellant,

-against-

J.P. Morgan Investment Management, Inc.,

Defendant-Respondent.

Securities Industry and Financial
Markets Association,

Amicus Curiae.

-----X

An appeal having been taken to this Court by the above-named plaintiff from the order of the Supreme Court, New York County, entered on or about January 28, 2010, and said appeal having been perfected,

And Securities Industry and Financial Markets Association ("SIFMA"), having moved for leave to file a brief amicus curiae in connection with the aforesaid appeal (M-2431),

And plaintiff-appellant having cross-moved for leave to file a supplemental brief in response to the proposed brief amicus curiae (M-2551),

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

M-2431

M-2551

Index No. 603755/08

It is ordered that the motion is granted to the extent of deeming the briefs amicus curiae submitted with the moving papers herein as filed (M-2431). The cross motion is granted and plaintiff is directed to file 10 copies of a supplemental brief in response to the brief amicus curiae on or before May 24, 2010 (M-2551).

ENTER:

A handwritten signature in black ink, reading "David Apolony". 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 May 18, 2010.

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

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

-against-

M-804A
M-956A
Ind. No. 5394/98

Keith Brock,
Defendant-Respondent-Appellant.

-----X

Defendant having moved by separate motions for leave to respond, as a poor person, to the People's appeal from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about February 3, 2010, (M-804) and for leave to prosecute defendant's cross appeal from said judgment of resentence, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief (M-956),

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 and cross 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 reproduced briefs, on condition that the respective appellant serves one copy of such brief upon their adversary 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 each 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 for purposes of responding to the appeal and prosecuting the cross appeal. The time within which the parties shall perfect this appeal and cross is hereby enlarged until 120 days from the date of filing of the record. (The order of this Court entered on April 13, 2010 [M-804/M-956] is hereby recalled and vacated.)

ENTER:



Clerk.

PM ORDERS

ENTERED

MAY 20, 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 20, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
James M. McGuire
Leland G. DeGrasse
Helen E. Freedman
Rosalyn H. Richter, Justices.

-----X
In the Matter of

Anthony M. W. A.,

M-2330

M-2550

A Dependent Child under 18 Years
of Age Pursuant to §384-b of the
Social Services Law.

Docket No. B877/06

- - - - -
Lutheran Social Services of
Metropolitan New York,
Petitioner-Respondent,

Micah W. A.,
Respondent-Appellant.

- - - - -
Mark Leider, Esq.,
Law Guardian for the Child.

-----X
An appeal having been taken from the order of the Family Court, New York County, entered on or about March 27, 2009,

And the Law Guardian having moved to dismiss the aforesaid appeal (M-2330),

And petitioner-respondent having cross-moved for the same relief (M-2550),

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 to dismiss the appeal are denied. Sua sponte assigned counsel is directed to perfect the appeal on or before July 12, 2010 for the September 2010 Term. So much of the motion and cross motion which seek dismissal of the appeal pursuant to CPLR 5511 is denied without prejudice to raising that issue directly on appeal.

ENTER:

A handwritten signature in black ink, appearing to read "David Apolony". 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 May 20, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
Eugene Nardelli
John W. Sweeny, Jr., Justices.

-----X
Ruby Emanuel, etc.,
Plaintiff,

-against-

M-2552
Index No. 1437/06

Sheridan Transportation Corp.,
et al.,
Defendants.

-----X
Kenneth Heller,
Contemnor-Appellant,

-against-

Jacoby & Myers, LLP,
Respondent,

Hon. Howard Silver,
Respondent.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County (Howard Silver, J.), entered on or about May 4, 2010, inter alia, directing contemnor Kenneth Heller to complete the remaining 29 days of a 30 day sentence of civil commitment imposed upon him,

And contemnor having moved for a stay of completion of sentence pending hearing and determination of the appeal,

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

Ordered that the motion is denied.

ENTER:



Clerk.