

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David B. Saxe
James M. Catterson
Rolando T. Acosta, Justices.

-----X
Laquasha Wright,
Plaintiff-Appellant,

-and-

Dedan Baldwin,
Plaintiff,

M-6074
Index No. 15742/07

-against-

Alex Cab Corp., et al.,
Defendants-Respondents.

-----X

Defendant-respondent Alex Cab Corp. having moved for dismissal of the appeal taken from order of the Supreme Court, Bronx County, entered on or about February 5, 2010,

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

It is ordered that the motion is 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 February 1, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzairelli
John W. Sweeny, Jr.
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
In the Matter of the Application of
40 Park Avenue, LLC,
Petitioner-Respondent-Appellant,

For a Judgment, etc.,

-against-

M-5683

Index No. 116042/09

New York State Division of Housing and
Community Renewal, et al.,
Respondent-Respondents,

40 Park Avenue Tenants' Association,
Respondent-Appellant-Respondent.

-----X

An appeal and cross appeal having been taken from the interlocutory order and judgment of the Supreme Court, New York County, entered on or about July 7, 2010,

And respondent-respondent, New York State Division of Housing and Community Renewal, having moved for an order dismissing the appeal and 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 granted and the appeal and cross appeal are 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 February 1, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzarelli
John W. Sweeny, Jr.
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
In the Matter of

Jamyra T.,

A Person Alleged to Be a Juvenile
Delinquent,

M-5724

Docket No. D18963/09

Respondent-Appellant.
-----X

Respondent-appellant having moved for leave to prosecute the appeal from an order of the Family Court, Bronx County, entered on or about September 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, Lisa H. Blitman, Esq., 225 Broadway, Suite 1203, New York, New York 10007, Telephone No. 212-724-2792, 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, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


CLERK

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 February 1, 2011.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzairelli
Rolando T. Acosta
Nelson S. Román Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-5958
Ind. No. 2710/97

Carlos Duarte,

Defendant-Appellant.

-----X

Defendant having renewed the motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about January 4, 2008, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to pay trial counsel's fee, Arlen Yalkut, Esq., and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David B. Saxe
James M. Catterson
Rolando T. Acosta, Justices.

-----X
Eli Weinstein,
Plaintiff-Appellant,

-and-

Pine Projects, LLC,
Plaintiff,

M-5904
Index No. 602563/08

-against-

Michael Gindi,
Defendant-Respondent.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, entered on or about October 29, 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 June 2011 Term.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
David B. Saxe
James M. Catterson
Rolando T. Acosta, Justices.

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

Mabel James,
Petitioner,

For a Judgment Pursuant to Article
78 of the CPLR,

M-6140
Index No. 105772/10

-against-

New York City Department of Housing
Preservation & Development and
Metro North Owners, LLC,
Respondents.

-----X

An Article 78 proceeding to review a determination of respondents, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about August 13, 2010,

And respondent, Metro North Owners LLC, having moved to vacate the stay contained in the aforesaid order of transfer, which enjoins the commencement of any proceeding against petitioner to recover rent at issue in the instant proceeding, 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 vacating the stay unless petitioner perfects the aforesaid proceeding on or before March 21, 2011 for the June 2011 Term, and the motion is otherwise denied. Upon failure to so perfect, the respondent may move on notice to vacate the stay.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
John W. Sweeny, Jr.
Rolando T. Acosta
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----x
Marie Spiconardi and Ronald Spiconardi,

Plaintiffs-Respondents,

-against-

M-6171
M-6172
Index No. 100470/05

Macy's East, Inc., Liz Claiborne, Inc.
and Federated Department Stores, Inc.,

Defendants-Appellants.
-----x

Appeals having been taken to this Court by defendants from the order of the Supreme Court, New York County, entered on or about August 25, 2010 (mot. seq. no. 007), and said appeals having been perfected,

Defendants-appellants having moved, by separate motions, for a stay of trial pending hearing and determination of the aforesaid appeal,

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.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzarelli
David B. Saxe
Karla Moskowitz
Rosalyn H. Richter, Justices.

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

Respondent,

-against-

M-5143
Ind. No. 5828/05

Yeong Sook Shin,

Defendant-Appellant.
-----X

A decision and order of this Court having been entered on April 23, 2009 (Appeal No. 398), unanimously affirming a judgment of the Supreme Court, New York County (William A. Wetzel, J.), rendered on October 16, 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.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzairelli
Richard T. Andrias
Rosalyn H. Richter, Justices.

-----X
Lucia Giraldi,
Plaintiff,

-against-

M-6013
Index No. 302379/08

New York City Department of Education,
Defendant.
-----X

An order of this Court having been entered on November 16, 2010 (M-5089), inter alia, dismissing plaintiff's appeal from the order of the Supreme Court, Bronx County, entered on or about May 21, 2009,

And plaintiff having moved for reconsideration of the aforesaid order of this Court entered on November 16, 2010 (M-5089),

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 February 1, 2011.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Rosalyn H. Richter
Nelson S. Román, Justices.

-----X
Al G. Hill, III,
Plaintiff-Appellant,

-against-

Theodate Coates,
Defendant-Respondent.
-----X

M-6057
M-6303
Index No. 601639/08

Plaintiff-appellant having moved (M-6057) for leave to appeal to the Court of Appeals from the decision and order of this Court entered on November 9, 2010 (Appeal No. 3565),

And defendant-respondent having cross-moved (M-6303) to strike plaintiff-appellant's reply in support of the motion to appeal to the Court of Appeals,

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 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 February 1, 2011.

Present: Hon. Peter Tom, Justice Presiding,
Karla Moskowitz
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Adams, Stevens & Bradley Ltd., et al.,

Plaintiffs-Appellants,

-against-

M-5828

Index No. 106023/08

Empire State Building Company L.L.C.,

Defendant-Respondent.
-----X

An appeal having been taken from the order and judgment of the Supreme Court, New York County, both entered on or about January 19, 2010,

And defendant-respondent having moved for an order dismissing 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 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 February 1, 2011.

Present: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzairelli
David Friedman
Diane T. Renwick
Leland G. DeGrasse, Justices.

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

Alvin D. Gonzalez,
Petitioner,

For a Judgment Pursuant to Article
78 of the CPLR,

M-6343
Index No. 118277/06

-against-

New York City Housing Authority,
Respondent.

-----X

An Article 78 proceeding to review a determination of respondent having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about March 23, 2007,

And respondent having moved for dismissal of the aforesaid proceeding for failure to timely prosecute,

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 proceeding 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 February 1, 2011.

PRESENT: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzairelli
David Friedman
Dianne T. Renwick
Leland G. DeGrasse, Justices.

----- X
Joseph Schaefer and Cindy Schaefer,
Plaintiffs-Appellants,

-against-

M-6179
Index No. 115693/04

New York City Transit Authority and
Metropolitan Transportation Authority,
Defendants-Respondents.

-----X

Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about March 4, 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 granted to the extent of enlarging the time in which to perfect the appeal to the June 2011 Term.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

PRESENT - Hon. Peter Tom, Justice Presiding,
Karla Moskowitz
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

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

Frances M., M-5793
Petitioner-Appellant, Docket Nos. V19916/05
V13194/09
-against V18721/09

Jorge M.,
Respondent-Respondent.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal deemed to be from orders of the Family Court, Bronx County, entered on or about October 12, 2010 and October 15, 2010, respectively, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Louise Belulovich, Esq., 411 East 57th Street, New York, New York 10022, Telephone No. (646) 824-0322, 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

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

the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzarelli
David Friedman
Diane T. Renwick
Leland G. DeGrasse, Justices.

-----X

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

M-6221

-----	Docket Nos. V72/06
Reeva A.-C.,	V72/06/08A
Petitioner-Respondent-Appellant,	V72/06/08B
	V156-7/04
-against-	V195-7/06
	V199/06
Angelique C.,	V520/06
Respondent-Respondent,	V520/06/07A
	V521/06
Richard C.,	V521/06/07A
Respondent-Appellant-Respondent.	

Deborah Gould, Esq., Children's Law Center, Attorney for the Children-Respondent.	

-----X

Separate appeals having been taken to this Court from the order of the Supreme Court, Bronx County, Integrated Domestic Violence Part, entered on or about May 1, 2009, and said appeals having been perfected,

And respondent-respondent mother, Angelique C., having moved for leave to respond, as a poor person, to the aforesaid separate appeals, for the 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

February 1, 2011

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, David M. Shapiro, Esq., 9903 Sheridan Avenue, 2nd Floor, Bronx, New York 10451, Telephone No. (718) 681-2628, as counsel for purposes of responding to the appeal(s); (2) permitting movant to respond to the appeal perfected by petitioner grandmother Reeva A.-C., nunc pro tunc (said petitioner's brief filed November 18, 2010). Sua sponte, the aforesaid separate appeals are adjourned to the May 2011 Term. Assigned counsel, David M. Shapiro, Esq., is granted leave to file a brief responding to the appeal taken by respondent-appellant father, Richard C., if so advised, on or before March 23, 2011 for said May 2011 Term; and (3) both filings are to be upon a reproduced respondent's brief, on condition that one copy of each brief be served upon the attorney(s) for appellant(s) and 8 copies thereof are filed with this Court.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David B. Saxe
Karla Moskowitz, Justices.

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

Respondent,

-against-

M-4806
Ind. No. 1080/98

Michael Wilson,

Defendant-Appellant.
-----X

A decision and order of this Court having been entered on January 23, 2001 (Appeal No. 3019), unanimously affirming a judgment of the Supreme Court, Bronx County (Robert Straus, J.), rendered on January 22, 1999,

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.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

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

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

Respondent,

-against-

M-5800
Ind. No. 261/77

Walter Grant,

Defendant-Appellant.
-----X

A decision and order of this Court having been entered on November 25, 1980, unanimously affirming a judgment of the Supreme Court, New York County (Alfred Kleiman, J.), rendered on June 13, 1977,

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.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

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

-----X
Abacus Federal Savings Bank,
Plaintiff-Respondent,

-against-

M-5723
Index No. 600872/07

ADT Security Services, Inc., et al.,
Defendants-Appellants,

Holmes Protection of New York,
Inc., et al.,
Defendants.

-----X

Plaintiff-respondent having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on October 12, 2010 (Appeal Nos. 2358-2359),

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.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
Rolando T. Acosta
Leland G. DeGrasse, Justices.

-----X
Robert Rucker,

Petitioner-Appellant,

-against-

M-6163
Index No. 103531/09

NYC/NYPD License Division,

Respondent-Respondent.
-----X

Petitioner-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on November 18, 2010 (Appeal No. 3641),

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.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzaelli
David Friedman
Dianne T. Renwick
Leland G. DeGrasse, Justices.

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

-against-

M-6204
Ind. No. 14326C/05

Marvin Byer,
Defendant-Appellant.

-----X

Defendant-appellant having moved for leave to file a pro se supplemental brief in connection with an appeal from a judgment of the Supreme Court, Bronx County, rendered on or about December 18, 2008, for a copy of the trial transcripts and for an enlargement of time in which to file said pro se supplemental brief,

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

It is ordered that the motion is granted to the extent of directing defendant to serve and file 8 copies of his pro se supplemental brief on or before March 21, 2011 for the June 2011 Term, to which Term the appeal is adjourned. The Clerk of the Court is directed to forward to the Warden at the State correctional facility wherein defendant is incarcerated a transcript of the minutes relating to defendant's appeal, said transcript to be made available to appellant and returned by appellant to this Court when submitting the pro se supplemental brief hereto. The appeal will not be heard unless and until all material furnished to appellant has been returned.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
David Friedman
John W. Sweeny, Jr.
Karla Moskowitz, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

Raymond Clarida,

Defendant-Appellant.

M-6071
Ind. Nos. 3449/10
3455/09

-----X

Defendant having moved for an extension of time to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about August 25, 2010, and for leave to prosecute the appeal as a poor person, to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of deeming the notice of appeal as timely filed.

The motion, to the extent it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$7,500 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
David Friedman
John W. Sweeny, Jr.
Karla Moskowitz, Justices.

-----x
Dr. Tulsa Knox,
Petitioner-Respondent,

For an Order and Judgment, etc.,

M-6250
Index No. 106696/09

-against-

New York City Department of Education,
Respondent-Appellant.
-----x

Respondent-appellant having moved for an enlargement of time in which to perfect the appeal from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about March 2, 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 granted to the extent of enlarging the time in which to perfect the appeal to the June 2011 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 February 1, 2011.

PRESENT: Hon. Angela M. Mazzairelli, Justice Presiding,
Rolando T. Acosta
Rosalyn H. Richter
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X
Freda Gates Pozefsky,
Plaintiff-Appellant,

-against-

M-6282
Index No. 112478/07

Richard T. Aulisi, etc., et al.,
Defendants-Respondents,

John Does, etc., et al.,
Defendants.

-----X

Plaintiff-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 December 7, 2010 (Appeal No. 3804),

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 February 1, 2011.

Present: Hon. Richard T. Andrias, Justice Presiding,
David Friedman
James M. Catterson
Diane T. Renwick
Leland G. DeGrasse, Justices.

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

Gloria Ortiz,
Petitioner,

For a Judgment Pursuant to Article
78 of the CPLR,

M-5874
Index No. 401314/09

-against-

New York City Housing Authority,
Respondent.

-----X

An Article 78 proceeding to review a determination of respondent having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about February 16, 2010,

And respondent having moved to dismiss the aforesaid proceeding,

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 proceeding 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 February 1, 2011.

Present: Hon. Richard T. Andrias, Justice Presiding,
David Friedman
James M. Catterson
Diane T. Renwick
Leland G. DeGrasse, Justices.

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

Elsie Haywood,
Petitioner,

For a Judgment Pursuant to Article
78 of the CPLR,

M-5882
Index No. 401129/09

-against-

New York City Housing Authority,
Respondent.

-----X

An Article 78 proceeding to review a determination of respondent having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about December 30, 2009,

And respondent having moved for dismissal of the aforesaid proceeding,

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 proceeding 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 February 1, 2011.

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

-----X
Edgar Brown,

Plaintiff-Appellant,

-against-

M-5892
Index No. 400538/08

City of New York, et al.,

Defendants-Respondents.
-----X

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about June 11, 2009,

And defendant having renewed his motion for leave to prosecute said appeal as a poor person, for the assignment of 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 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 February 1, 2011.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
John W. Sweeny, Jr.
Karla Moskowitz
Leland G. DeGrasse
Sheila Abdus-Salaam, Justices.

-----X
Jane Wheeler,

Plaintiff-Respondent,

-against-

M-6162
Index No. 300662/08

Robert C. Wheeler,

Defendant-Appellant.
-----X

An appeal having been taken from the orders of the Supreme Court, New York County, entered on or about December 15, 2010 (mot. seq. nos. 018, 019), and said appeal having been perfected,

And defendant-appellant having moved for an order staying enforcement of the aforesaid order pending hearing and determination of said appeal,

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

It is ordered that the motion is denied.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Richard T. Andrias, Justice Presiding,
Karla Moskowitz
Dianne T. Renwick
Helen E. Freedman, Justices.

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

Respondent,

-against-

M-4794
Ind. No. 6702/06

Michael Joyce,

Defendant-Appellant.
-----X

A decision and order of this Court having been entered on January 13, 2009 (Appeal No. 5023), unanimously affirming a judgment of the Supreme Court, New York County (Gregory Carro, J.), rendered on November 7, 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.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present - Hon. Richard T. Andrias, Justice Presiding,
James M. McGuire
Karla Moskowitz
David Friedman
Nelson S. Román, Justices.

-----X
Estate of Saul Spitz, et al.,

Plaintiffs-Appellants,

-against-

M-5773
Index No. 109854/08

Gary Pokoik, etc., et al.,

Defendants-Respondents,

-and-

Davin Pokoik,

Defendant.
-----X

Plaintiffs-appellants having moved for reargument of the decision and order of this Court entered on November 4, 2010 (Appeal No. 1987),

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.

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X
In the Matter of a Proceeding for
Paternity Under Article 5 of the
Family Court Act.

Todd S., M-5878
Petitioner, Docket No. P55964/09

-against-

Lauri B.,
Respondent.

-----X

An order of the Family Court, New York County, having been entered on November 16, 2010, denying petitioner's request seeking declaration that he is the biological father of the subject child, Mabel Elouise B., and for genetic (DNA) testing therefor,

And petitioner having moved for an order granting leave to appeal to this Court from the aforesaid order of the Family Court, entered on or about November 16, 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. (See M-5878A, decided simultaneously herewith.)

ENTER:


CLERK

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

BEFORE: Hon. Nelson S. Román,
Justice of the Appellate Division

-----X
In the Matter of a Proceeding for
Paternity Under Article 5 of the
Family Court Act.

- - - - -
Todd S.,
Petitioner,

M-5878A
Docket No. P55964/09

-against-

Lauri B.,
Respondent.

-----X

An order of the Family Court, New York County, having been entered on November 16, 2010, denying petitioner's request seeking declaration that he is the biological father of the subject child, Mabel Elouise B., and for genetic (DNA) testing therefor,

And respondent having moved for a stay of the aforesaid order of the Family Court, entered on or about November 16, 2010, pending hearing and determination of the appeal taken therefrom,

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

It is ordered that the motion is denied, as academic, leave to appeal to this Court having been denied by the order of this Court (M-5878), decided simultaneously herewith.

Dated:

New York, New York



Hon. Nelson S. Román
Associate Justice

Entered: FEB 01 2011

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

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

-----x
In the Matter of

Keliss R. and
Ezra R.,

Children Under the Age of 18 Years
Alleged to be Neglected.

Commissioner of Administration for
Children's Services of the City of
New York,
Petitioner-Appellant,

M-4354
Docket Nos. NN14197-8/10

Karill S. and Leonardo R.,
Respondents-Respondents.

Steven Banks, Esq., The Legal Aid
Society, Juvenile Rights Division,
Attorney for the Children.
-----x

Petitioner-appellant having moved for leave to withdraw the appeal from the order of the Family Court, Bronx County, entered on or about June 4, 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 granted and the appeal is deemed withdrawn.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

PRESENT - Hon. David B. Saxe, Justice Presiding,
David Friedman
Sheila Abdus-Salaam
Nelson S. Román, Justices.

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

Jemari A. O.,

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

Cardinal McCloskey Services, et al.,
Petitioners-Respondents,

M-5816
Docket No. B8252/10

Jarmila O., also known as Jarmila M.
O.,
Respondent-Appellant.

Paul Sweeney, Esq.,
Attorney for the Child.

-----X
Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from an order of commitment of the Family Court, Bronx County, entered on or about October 12, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Steven N. Feinman, Esq., 19 Court Plaza, Suite 201, White Plains, New York 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 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) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


CLERK

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 February 1, 2011.

Present - Hon. David B. Saxe, Justice Presiding,
David Friedman
James M. McGuire
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-5771
Ind. No. 1302/10

Thomas A. Howell,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about October 12, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth facts sufficient to establish that defendant has no funds or assets with which to prosecute the appeal, including the amount and sources of his income and listing his property with its value. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

E N T E R:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present: Hon. David B. Saxe, Justice Presiding,
Karla Moskowitz
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----X
Linda Spector and Paul Spector,
Plaintiffs-Appellants-Respondents,

-against-

Cushman & Wakefield, Inc., et al.,
Defendants,

M-6133

Index No. 104607/07

Citibank, N.A.,
Defendant-Respondent-Appellant.

-----X

Citibank, N.A.,
Third-Party Plaintiff-Respondent-
Appellant,

-against-

Third-Party

Index No. 590275/08

One Source Facility Services, Inc.,
Third-Party Defendant-Respondent.

-----X

(And a second third-party action)

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 27, 2010, and the direct appeal having been perfected,

And defendant/third-party plaintiff-respondent-appellant, Citibank, N.A., 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 granted only to the extent of enlarging defendant/third-party plaintiff-respondent-appellant Citibank's time in which to perfect the cross appeal to the June 2011 Term, to which Term plaintiffs' direct appeal is adjourned. The Clerk is directed to calendar the appeal and cross appeal for hearing together on the same day calendar during the June 2011 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 February 1, 2011.

PRESENT: Hon. David B. Saxe, Justice Presiding,
David Friedman
Karla Moskowitz
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Alfred E. Mann Living Trust,
Plaintiff-Respondent,

-against-

M-5739
Index No. 600849/09

ETIRC Aviation S.a.r.l.,
Defendant,

Roland ("ROEL") Pieper,
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 October 19, 2010 (Appeal No. 3235-3235A),

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 February 1, 2011.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
James M. McGuire
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X

Treasure Tower Corp.,
Petitioner-Respondent,

-against-

M-5923
Index No. 53088/08

Miguel Santos,
Respondent,

Chen Shu Hui,
Respondent-Appellant.

-----X

Respondent-appellant 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 September 2, 2010, and for a stay of all proceedings pending hearing and determination of the appeal,

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

It is ordered that the motion is denied.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

PRESENT: Hon. David B. Saxe, Justice Presiding,
David Friedman
James M. Catterson
Rolando T. Acosta
Rosalyn H. Richter, Justices.

-----X
Amelie Trahant,
Plaintiff-Respondent,

-against-

M-6085
Index No. 108765/07

82 Horatio Owners, Ltd., P&G Equities,
LLC, F1 LLC and Siren Management Corp.,
Defendants-Appellants.

-----X

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about October 29, 2010 (mot. seq. no. 002), and said appeal having been perfected,

And defendants-appellants P&G Equities, LLC and F1 LLC having moved for a stay of trial pending hearing and determination of the aforesaid appeal,

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

It is ordered that the motion is granted.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on February 1, 2011.

Present: Hon. David B. Saxe, Justice Presiding,
Karla Moskowitz
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----X
Victoriano Ventura,
Plaintiff-Appellant,

-against-

M-6233
Index No. 18594/04

Ozone Park Holding Corp., et al.,
Defendants-Respondents.
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about October 14, 2009, and said appeal having been perfected,

And Carmen, Callahan & Ingham, LLP, having moved to withdraw as appellate counsel for defendant-respondent 3 Kings Collision, Inc., and for an adjournment of the perfected appeal to allow defendant-respondent time to retain new counsel and file a respondent'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, to the extent Carman, Callahan & Ingham, LLP seeks to withdraw as appellate counsel for defendant-respondent, is granted on condition said counsel serves a copy of this order upon all parties within 10 days of the date of entry hereof, and it is further

Ordered that the appeal is adjourned to the May 2011 Term, with proposed new counsel for defendant-respondent 3 Kings Collision, Inc. to serve and file 9 copies of their respondent's brief on or before March 23, 2011 for said May 2011 Term, with no further adjournments to be 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 February 1, 2011.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
James M. Catterson
Rolando T. Acosta
Rosalyn H. Richter, Justices.

-----X
Sagi Genger and Elena Genger,
Petitioners-Appellants-Respondents,

-against-

M-6177

M-5972

The Arie Genger 1995 Life Insurance Trust,
Respondent-Respondent-Appellant,

Index No. 108602/08

The New York City Department of Finance,
Office of the City Register,
Respondent.

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about October 21, 2010 (mot. seq. no. 008),

And respondent-respondent-appellant having moved for leave to submit a supplemental record on appeal which would include certain discovery rulings, for an enlargement of time in which to perfect its cross appeal, and for related relief (M-6177),

And petitioners-appellants-respondents having cross-moved to stay trial pending hearing and determination of the appeal and cross appeal (M-5972),

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 petitioners' cross motion (M-5972) is granted and the trial is stayed pending hearing and determination of the appeal and cross appeal on condition that petitioners make all payments when due, including, but not limited to, mortgage

payments, maintenance payments or any other payments required for both subject apartments, and take no further steps to encumber the apartments or in any manner negatively impact any ownership interest. Respondent's motion (M-6177) is granted to the extent of granting the respondent "Trust" leave to submit the April 15, 2009 order as a supplemental record on appeal with its respondent/cross-appellant's brief on or before March 2, 2011 for the April 2011 Term, to which Term the appeal and cross appeal are adjourned. The attention of the parties is also directed to 22 NYCRR 600.11(d). Respondent's motion (M-6177) 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 February 1, 2011.

PRESENT - Hon. David B. Saxe, Justice Presiding,
David Friedman
James M. McGuire
Sheila Abdus-Salaam
Nelson S. Román, Justices.

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

Janell J., and
Rachel J.,

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

- - - - -
Cardinal McCloskey Services, et al., M-5848
Petitioners-Respondents, Docket No. B829-30/09

Shanequa J.,
Respondent-Appellant.

- - - - -
Steven Banks, Esq., The Legal Aid
Society, Juvenile Rights Division,
Attorney for the Children.

-----X

Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from orders of the Family Court, New York County, entered on or about September 24, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

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

Ordered that the motion is granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Steven N. Feinman, Esq., 19 Court Plaza, Suite 201, White Plains, New York 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 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) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:


CLERK

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 February 1, 2011.

Present: Hon. John W. Sweeny, Jr., Justice Presiding,
Karla Moskowitz
Diane T. Renwick
Leland G. DeGrasse
Nelson S. Román, Justices.

-----X

259 West 12th, LLC,

Petitioner-Landlord-Respondent,

-against-

M-5245

Index No. 570300/09

Pearl Grossberg,

Respondent-Tenant-Appellant.

-----X

Respondent-tenant 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 July 29, 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 granted, and the interim relief granted by a Justice of this Court on October 21, 2010 is continued on the same terms and conditions therein, pending hearing and determination of the appeal on condition the appeal is perfected on or before March 21, 2011 for the June 2011 Term. Appellant shall file two copies of the pre-argument statement and of this order with the Clerk of the Appellate Term with proof of service, pursuant to Section 600.17 of the Rules of this Court.

ENTER:


CLERK

STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT
BEFORE: Hon. James M. Catterson
Justice of the Appellate Division

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

Respondent

M-6025
Ind. No.4282/10

-against-

JOSE MIRANDA RAMOS,

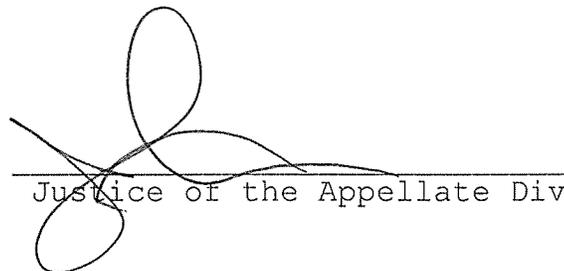
Defendant-Appellant

ORDER DENYING
RECOGNIZANCE OR
BAIL PENDING APPEAL

-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, N.Y. County, rendered on or about October 29, 2010, and defendant-appellant having moved, pursuant to CPL 460.50 and 530.50 for an order of recognizance or to be admitted to bail pending hearing and determination of the aforesaid appeal, now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers filed in support of said motion, and further papers filed in relation thereto; and due deliberation having been had thereon, it is ordered that the motion is denied.

Dated: January 24, 2011
New York, New York



Justice of the Appellate Division

ENTERED FEB 01 2011