

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 January 25, 2011.

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

-----X
Storeboard Media LLC,
Plaintiff,

-and-

Brock Capital Group LLC and
Charles L. Brock,
Plaintiffs-Appellants-
Respondents,

-against-

The Tori Group Inc., and
Douglas B. Leeds,
Defendants-Respondents-
Appellants.

M-6048X
Index No. 603739/07
Index No. 600801/09

-----X
The Tori Group Inc., and
Douglas B. Leeds and Storeboard
Media LLC,
Third-Party Plaintiffs-
Respondents-Appellants,

-against-

Charles L. Brock,
Third-Party Defendant-
Appellant-Respondent.

Third-Party
Index No. 590049/08

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 4, 2010 (mot. seq. nos. 001, 002, 004),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" December 6, 2010, and due deliberation having been had thereon,

It is ordered that the appeal and cross appeal are withdrawn in accordance with the aforesaid stipulation.

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 January 25, 2011.

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

-----X
Josue Gonzalez,
Plaintiff-Respondent,

-against-

Oak Point Development, LLC and
FLM Radicchio King, Inc.,
Defendants-Appellants,

M-6347
Index. No. 21331/06

-and-

Dandy Lion Farm, Inc. and
J&L&A Auto Sales, Inc.,
Defendants.

-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about July 14, 2010,

Now, upon reading and filing the stipulation of the parties hereto, filed December 20, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the October 2010 Term, is withdrawn in accordance with the aforesaid stipulation.

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 January 25, 2011.

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

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

-against-

M-6053
Index No. 101999/05

Janet Jackson, et al.,
Defendants-Respondents-Respondents,

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

-and-

Knight Time Security of New York, Inc.
and Titan Security, Inc.,
Defendants-Respondents-Appellants.

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

-against-

Third-Party
Index No. 590793/05

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

Knight Time Security of New York, Inc.
and Titan Security, Inc.,
Third-Party Defendants-
Respondents-Appellants.

-----X

An appeal and cross appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about June 25, 2009 (mot. seq. no. 006), and an appeal having

been taken from the order of the same court, entered on or about November 19, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated December 8, 2010, and due deliberation having been had thereon,

It is ordered that the appeals and cross appeal, previously perfected for the November 2010 Term, 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 January 25, 2011.

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

-----X
Ivy League Medical Realty Corp.,
Plaintiff-Respondent,

-against-

M-6360
Index No. 105807/08

ET and AK Billing Inc. and Errol Toran,
Defendants-Appellants.
-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about December 16, 2009,

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

It is ordered that the appeal, previously perfected for the January 2011 Term, is withdrawn in accordance with the aforesaid stipulation.

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 January 25, 2011.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzarelli
Karla Moskowitz
Rolando T. Acosta
Nelson S. Román, Justices.

-----X
In the Matter of the Application of
Elizabeth Guzman,
Petitioner,

For an Order Pursuant to Article 78 M-5966
of the Civil Practice Law and Rules, Index No. 401797/09

-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 24, 2010,

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

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

It is ordered that the motion to dismiss the proceeding is granted unless the proceeding is perfected on or before March 21, 2011 for the June 2011 Term. The time to perfect the proceeding is sua sponte enlarged to the June 2011 Term. Upon failure to so perfect, an order dismissing the proceeding may be entered ex parte, provided respondent serves a copy of this order upon the petitioner 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 January 25, 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

Fernando Alexander B.,

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

M-6067
Docket No. B-8171/08

Leake & Watts Services, Inc.,
et al.,
Petitioners-Respondents,

Simone Anita W.,
Respondent-Appellant,

Julio Fernando B.,
Respondent.

Steven Banks, Esq.
Attorney for the Child.

-----X
Petitioner-respondent agency having moved for dismissal of the appeal taken from the order of the Family Court, Bronx County, entered on or about June 2, 2009, for failure to timely perfect,

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

It is ordered that the motion to dismiss the appeal is granted unless said appeal is perfected for the May 2011 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided petitioners-respondents serve a copy of this order upon the respondent-appellant within 10 days after the date of entry hereof.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 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 a Paternity Proceeding
Under Article 5 of the Family Court
Act.

- - - - -
Commissioner of Social Services, on M-5731
behalf of Edith S., Docket No. P20692/09
Assignor-Respondent,

-against-

Victor C.,
Respondent-Appellant.
-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, New York County, entered on or about August 6, 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, Randall Carmel, Esq., Jackson Avenue, Syosset, NY 11791, Telephone No. (516) 921-8800, 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 January 25, 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

Breeana R. W., also known as
Breeana R. S., also known as
Breeana W.,

M-5362
Docket No. B13270/08

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

Episcopal Social Services, et al.,
Petitioners-Respondents,

Antigone W.,
Respondent-Appellant.

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

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, New York County, entered on or about August 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, Richard L. Herzfeld, Esq., 555 Fifth Avenue, 14th Floor, New York, NY 10017, Telephone No. (212) 818-9019), as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the

January 25, 2011

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 January 25, 2011.

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-3342A
Ind. No. 1411/99

Nelson Flores, also known as
Tony Martinez, also known as
Flores Nelson,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of resentence of the Supreme Court, Bronx County, rendered on or about April 5, 2010, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of resentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record. The order of this Court entered on August 24, 2010 (M-3342), is hereby recalled and vacated.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

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

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

Respondent,

-against-

M-5996
Ind. No. 1600/00

Julio Muñoz, also known as Julio Matos,

Defendant-Appellant.
-----X

Defendant having motion renewed the leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about July 7, 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, in compliance with CPLR 1101(a), setting forth the terms of defendant's retainer agreement with trial counsel, David Goldstein, Esq., the amount and sources of funds to pay the fee of trial counsel, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by 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 January 25, 2011.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
James M. Catterson
Rolando T. Acosta
Sallie Manzanet-Daniels, Justices.

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

Kacy Nicole R., M-5202
Petitioner-Respondent, Docket No. F10541-06/08C&D

-against-

Roger W.,
Respondent-Appellant.

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

-----X
Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Family Court, Bronx County, entered on or about December 14, 2009, for a free copy of the transcript, an enlargement of time in which to perfect said appeal, 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 only to the extent of enlarging the time in which to perfect the appeal to on or before March 21, 2011 for the June 2011 Term, with no further enlargements to be granted. The motion is otherwise denied.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

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

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

-against-

David Powell,
Defendant-Appellant.

M-5933
Ind. Nos. 5602/03
1077N/09

-----X

An order of this Court having been entered on October 6, 2009 (M-4007), inter alia, granting defendant's motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about August 11, 2009, under Indictment No. 5602/03, and assigning counsel therefor,

And defendant-appellant having moved for an order amending the notice of appeal and the aforementioned order to include the judgment of said Court also rendered on or about August 11, 2009, under Indictment No. 1077N/09,

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

It is ordered that said motion is granted to the extent of amending defendant's notice of appeal and the aforementioned order to include Indictment Nos. 5602/03 and 1077N/09, and extending the poor person relief previously granted to cover same.

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 January 25, 2011.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
John W. Sweeny, Jr.
Rolando T. Acosta
Dianne T. Renwick
Nelson S. Román, Justices.

-----X
Elena Strujan,
Plaintiff-Appellant,

-against-

Rainbow Ace Hardware, et al.,
Defendants-Respondents.

M-5624
Index No. 406368/07

-----X

An order of this Court (M-4629) having been entered October 26, 2010, dismissing the appeal from the order of the Supreme Court, New York County, entered on or about September 9, 2009 (mot. seq. no. 004),

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 due deliberation having been had thereon,

It is ordered that the motion is denied as moot, said appeal having been 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 January 25, 2011.

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

-----X
James L. Melcher,

Plaintiff-Appellant-Respondent/
Plaintiff-Respondent,

-against-

M-6058
Index No. 604047/03

Apollo Medical Fund Management L.L.C.,
And Brandon Fradd,

Defendants-Respondents-Appellants/
Defendants-Appellants.

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about September 8, 2009, and appeals having been taken from the order of said Court entered on or about January 8, 2010 and from the judgment of said Court, entered on or about February 2, 2010,

And defendants having moved to strike the portion of plaintiff James L. Melcher's respondent's brief, dated December 8, 2010, which addresses the merits of his cross appeal (pages 42-65 thereof) 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, and plaintiff is directed to expeditiously excise the aforesaid material (pages 42-65) from his respondent's brief with the related relief and costs to abide the event.

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 January 25, 2011.

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

-----X
Coastal Sheet Metal Corp.,
Plaintiff-Respondent,

-against-

RJR Mechanical Inc., et al., M-6116
Defendants-Appellants, Index No. 400303/06

-and-

New York State University Construction
Fund, et al.,
Defendants.

-----X

Appeals having been taken to this Court from the judgment of the Supreme Court, New York County entered on or about April 22, 2009, and from an order of said Court entered on or about August 10, 2010 (mot. seq. no. 008), respectively,

And defendants-appellants having moved for consolidation of the aforesaid appeals, and for other relief,

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

It is ordered that the motion is denied.

ENTER:


CLERK

CORRECTED ORDER – February 3, 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 January 25, 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

Tyrique Alexandra B. and
Xavion Liviro H.,

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

M-6090
Docket Nos. B957/09
B958/09

- - - - -

Catholic Guardian Society and Home
Bureau, et al.,
Petitioners-Respondents,

Alexandra B. B., also known as
Alexandria Bridget B.,
Respondent-Appellant.

- - - - -

Hal Silverman, Esq., Lawyers for Children,
Attorney for the Children.

-----x

Appeals having been taken to this Court by appellant mother from orders of Family Court, New York County, entered on or about January 6, 2010,

And respondent-appellant having moved for consolidation of the aforesaid appeals,

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

It is ordered that the motion is granted to the extent of permitting the appellant to prosecute the consolidated appeals upon 8 copies of one set of appellant points covering the consolidated appeals. The attention of the parties is directed to 22 NYCRR § 600.11. The time to perfect the consolidated appeals is enlarged to the May 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 January 25, 2011.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
James M. Catterson
Karla Moskowitz
Rosalyn H. Richter, Justices.

-----x
In the Matter of

Henry S.,

An Incapacitated Person.

P. Gregory Hess, As Executor of the
Estate of Henry S.,
Executor-Respondent,

M-5745
Index No. 91775/04

Sandra M. Prowley,
Co-Guardian Appellant.

-----x

An appeal having been taken to this Court from orders of the Supreme Court, Bronx County, entered on or about February 10, 2009, May 4, 2009, June 5, 2009, August 20, 2009 and September 15, 2009, respectively,

And an order of this Court having been entered November 16, 2010 (M-4753) dismissing the aforesaid appeal,

And co-guardian appellant having moved to vacate the order of this Court entered November 16, 2010 (M-4753), to restore the aforesaid appeal, 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. The Clerk is directed to accept no further submissions from appellant pertaining to the aforesaid dismissed 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 January 25, 2011.

Present: Hon. Peter Tom, Justice Presiding,
David Friedman
James M. Catterson
Diane T. Renwick
Sheila Abdus-Salaam, Justices.

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

- - - - -
Azmaria N. G., Docket Nos. V1814/09
Petitioner-Appellant, V29051/07

-against-

Jessica Stephanie S. and the
Administration for Children's Services,
Respondents-Respondents.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from orders of the Family Court, Bronx County, entered on or about September 29, 2010, and for assignment of counsel, a free copy of the transcript, for an enlargement of time in which to perfect the appeal, 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, #14C, New York, NY 10022, Telephone No. (212) 421-6113, 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. So much of the motion which seeks and enlargement of time in which to perfect the appeal is denied, as unnecessary.

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 January 25, 2011.

Present: Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

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

John Whitfield,

Petitioner-Appellant,

For a Judgment, etc.,

M-5941
Index No. 110706/08

-against-

Patricia J. Bailey, FOIL Officer,
of the New York County District
Attorney's Office,
Respondent-Respondent.

-----X
Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about October 5, 2010, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, 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 to the extent of permitting the appeal to be heard upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the attorney for respondent and file 8 copies of such brief, together with the original record, with this Court. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record. The attention of the parties is directed to 22 NYCRR 600.11.

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 January 25, 2011.

Present - Hon. Peter Tom, Justice Presiding,
David B. Saxe
James M. Catterson
Dianne T. Renwick
Leland G. DeGrasse, Justices.

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

-against-

M-4694A
Ind. No. 3190/08

Sharmelle Johnson, also known as
Samuel Johnson,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about September 8, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

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

Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record. The order of this Court entered on December 3, 2009 (M-5074) is hereby recalled and vacated.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David B. Saxe
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

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

-against-

M-5627
Ind. No. 3618N/08

Mario Bracero,
Defendant-Appellant.
-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from a judgment of the Supreme Court, New York County, rendered on or about August 4, 2010, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of deeming the moving papers as a timely filed notice of appeal and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

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

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

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 January 25, 2011.

Present: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David B. Saxe
David Friedman
Sallie Manzanet-Daniels, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-5623
M-5772
Ind. No. 3293N/07

Eston James, also known as Joshua
James,

Defendant-Appellant.

-----X

Defendant having moved for an extension of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about September 14, 2010, for leave to prosecute the appeal as a poor person upon the original record and a reproduced appellant's brief, and for related relief (M-5623),

And defendant having moved by duplicate motion for the same relief (M-5772),

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

It is ordered that defendant's motion (M-5623) is granted to the extent of deeming the moving papers a timely filed notice of appeal and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall

furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record. Defendant's second motion (M-5772) for the same relief is denied as moot.

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 January 25, 2011.

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

-----X
Linnet Isaac,
Plaintiff-Respondent,

-against-

M-6312
Index No. 7417/07

1515 Macombs, LLC, Chestnut Holdings
of New York LLC,
Defendants-Appellants,

Advantage Elevator Company,
Defendant-Appellant.

-----X

Separate appeals having been taken by the respective defendants-appellants from the order of the Supreme Court, Bronx County, entered on or about July 23, 2010, and said appeal having been perfected,

And defendant-appellant, Advantage Elevator Company, having moved for an order staying trial pending hearing and determination of the aforesaid appeals,

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

It is ordered that the motion is granted.

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 January 25, 2011.

Present - Hon. Peter Tom, Justice Presiding,
Angela M. Mazzarelli
Diane T. Renwick
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

-----x
Warsaw Burnstein Cohen Schlesinger
& Kuh, LLP,

Plaintiff-Respondent,

-against-

Eric A. Longmire,

Defendant-Appellant.
-----x

SEALED

M-6243

Index No. 116683/09

An appeal having been taken to this Court from an amended order of the Supreme Court, New York County entered on or about December 9, 2010, and said appeal having been perfected,

And defendant-appellant having moved for a stay of all proceedings 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 January 25, 2011.

PRESENT: Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
Rolando T. Acosta
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
In the Matter of
the Estate of Carl Levine M-6190
----- M-23
Caren Stanley, Surrogate's Court
Respondent, File No. 4620/04

David Fink,
Non-Party Appellant.
-----X

Appeals having been taken from orders of the Surrogate's Court, New York County, entered on or about June 9, 2009 and on or about December 23, 2009, respectively, and said appeal from the order entered on or about June 9, 2009 having been perfected and placed on the February 2011 Term calendar of this Court,

And an order of this Court having been entered on September 30, 2010 (M-4097) dismissing the appeal taken from the order entered on or about December 23, 2009 unless perfected on or before December 6, 2010 for the aforesaid February 2011 Term,

And non-party respondent Special Referee Betty Ellerin having moved (M-6190) for an order dismissing, with prejudice, the appeal of non-party appellant David Fink from the order entered on December 23, 2009, for violating the aforesaid order of this Court entered September 30, 2010 (M-4097), and for related relief,

And non-party appellant David Fink having cross-moved (M-23) for an order declaring that the appeal from the order entered December 23, 2009 was timely perfected and extending appellant's time to file any respondent's brief, and for related relief,

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

Ordered that the motion (M-6190) to dismiss the appeal from the order entered December 23, 2009 and for related relief is denied, without prejudice to raising the issues related thereto upon argument of the appeal. The cross motion (M-23) is denied in its entirety. The Clerk of the Court is directed to maintain the appeals on the Court's calendar for the February 2011 Term and to calendar said appeals for hearing together on the same day.

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 January 25, 2011.

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

-----X
Azita Zendel,
Plaintiff-Appellant,

-against-

Moore Capital Management, LLC, et al.,
Defendants-Respondents.

M-5540
M-5903
Index No. 602115/08

-----X

Plaintiff-appellant having moved (M-5540) for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about September 10, 2009,

And defendants-respondents having cross-moved (M-5903) to dismiss the aforesaid appeal for failure to timely perfect, and for related relief,

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

It is ordered that the motion (M-5540) is granted to the extent of enlarging the time in which to perfect the appeal to the May 2011 Term. It is further ordered that the cross motion (M-5903) to dismiss is granted unless the appeal is so perfected, and the cross motion is otherwise denied.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

PRESENT: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
John W. Sweeny, Jr.
Leland G. DeGrasse, Justices.

-----X
Korene Tinney and Kyle Tinney,
Plaintiffs-Respondents-Appellants,

-against-

The City of New York, et al.,
Defendants-Appellants-Respondents.

M-5529
M-5649
Index No. 404661/06

-----X

Defendants-appellants City of New York having moved (M-5529) for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about December 28, 2009 (mot. seq. no. 002),

And plaintiffs-respondents-appellants have cross-moved (M-5649) for an enlargement of time in which to perfect their cross appeal from the aforesaid order,

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

It is ordered that the motion (M-5529) and cross motion (M-5649) are granted to the extent of enlarging the time in which to perfect the appeal and cross appeal to the May 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 January 25, 2011.

Present: Hon. Peter Tom, Justice Presiding,
David Friedman
James M. Catterson
Diane T. Renwick
Sheila Abdus-Salaam, Justices.

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

-against-

Curtis Brown,
Defendant-Appellant.

M-5743
Ind. Nos. 5961/06
6402/06

-----X
An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about September 15, 2009,

And defendant having moved for an order enlarging the record on appeal to include the minutes of the Supreme Court's pre-trial proceedings under New York Indictment Nos. 5961/06 and 6402/06 set forth in detail in the Addendum to assigned counsel's Notice of Motion,

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 the Clerk of Supreme Court, New York County, to have transcribed all minutes of the proceedings held herein as not yet transcribed including but not limited to those appearances enumerated in the Addendum to assigned counsel's Notice of Motion for inclusion in the record on appeal, within 30 days from the date of service upon the Clerk of a copy of this order, which counsel is directed to serve upon the Clerk and the individual court reporter(s) within 10 days from 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 January 25, 2011.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Diane T. Renwick
Leland G. DeGrasse, Justices.

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

-against-

M-5839
Ind. No. 7044/00

Orlando Medina, also known as Orlando
Medina Lopez,
Defendant-Appellant.

-----X

An order of a Justice of this Court having been entered on September 30, 2010 (M-4283), granting defendant, pursuant to CPL 460.15, leave to appeal to this Court from the order of the Supreme Court, New York County, entered on or about April 19, 2010,

And defendant having moved for leave to prosecute the aforesaid appeal as a poor person, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings related to the aforesaid order entered April 19, 2010. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Dianne T. Renwick
Leland G. DeGrasse, Justices.

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

-against-

M-5888
Ind. No. 2094/09

Andre Villegas,
Defendant-Appellant.

-----X

An order of this Court having been entered on February 11, 2010 (M-155), granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about October 21, 2009, and assigning Steven Banks, Esq., as counsel to prosecute the appeal; and a motion having been made to relieve such 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 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.

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 January 25, 2011.

Present - Hon. Angela M. Mazzairelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Diane T. Renwick
Leland G. DeGrasse, Justices.

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

Victor C.,
Courtney C.,
Chelsea C., and
Richard C.,

M-5783A
Docket Nos. B9204-07/06

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

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

Bethania C., also known as
Bethania A. C.,
Respondent-Appellant.

Randall Carmel, Esq.,
Attorney for the Children Victor C.,
Courtney C. and Richard C.,

Steven Banks, Esq., The Legal Aid
Society, Juvenile Rights Division,
Attorney for Chelsea C.

-----X
An appeal having been taken by respondent-appellant
mother from orders of the Family Court, New York County, all
entered on or about May 6, 2009,

And an order of this Court having been entered on
November 5, 2009 (M-4265), granting respondent-appellant mother
poor person relief and the assignment of counsel,

January 25, 2011

And Wendy Luger, Esq., attorney for the children, Victor C. and Richard C., having moved to be relieved as attorney for the subject children and for a new attorney to be assigned to respond to the respondent mother'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 relieving Wendy Luger, Esq. as attorney for the subject children Victor C. and Richard C. and, sua sponte, relieving Elizabeth Callaghan, Esq. as attorney for the child Courtney C. and substituting, Article 18b of the County Law and § 1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, New York, 11791, Telephone No. (516) 921-8800, as attorney for the subject children Victor C., Richard C. and Courtney C. for purposes of responding to the appeal. Sua sponte, the appeal is adjourned to the May 2011 Term. The order of this Court entered on January 6, 2011 (M-5783), is hereby recalled and vacated.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

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

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

Judith L. Hancock,
Petitioner-Respondent,

M-6240
Index No. 604417/06

From an Order Under Sections 725(c)
and 1315(c) and (d) of the New York
Business Corporation Law and New York
Common Law Directing an Inspection of
the Stockholder Ledger, etc.,

-against-

Arts4all, Ltd., also known as "A4A
Mobile, Ltd.",
Respondent-Appellant.

-----X

A purported appeal having been taken from the order of the Supreme Court, New York County, entered on or about January 27, 2010 (mot. seq. no. 007),

And petitioner-respondent having moved for an order dismissing the aforesaid appeal on the ground that it was taken from an order in an Article 78 proceeding, which, pursuant to CPLR 5701(b)(1), is not appealable as of right,

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, without prejudice to a timely appeal from a final judgment determining the proceeding.

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 January 25, 2011.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Diane T. Renwick
Leland G. DeGrasse, Justices.

-----X
The Rainbow Corp., et al.,
Plaintiffs-Appellants,

-against-

M-5145
Index No. 108071/07

The City of New York, acting by and
through its Department of Housing
Preservation and Development, et al.,
Defendants-Respondents.
-----X

Appeals having been taken from the order of the Supreme Court, New York County, entered on or about November 13, 2009 (mot. seq. no. 003), and from the order of said Court, entered on or about June 17, 2010 (mot. seq. no. 004) which denied reargument, and said appeals having been perfected,

And defendants-respondents having moved to dismiss plaintiffs' appeal taken from the order of the Supreme Court, New York County, entered on or about June 17, 2010 which denied reargument, and to strike from the plaintiffs's Record on Appeal and appellants' brief all documentation and references to said June 17, 2010 order, and to adjourn 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 granted to the extent of dismissing plaintiffs' appeal taken from the order entered on June 17, 2010 and directing plaintiffs' counsel to physically remove from the Record on Appeal and appellants' brief filed in this Court those portions pertaining to the dismissed appeal with 10 days of the date of entry of this order. The perfected appeal taken from the order entered on November 13, 2009 is adjourned to the April 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 January 25, 2011.

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

-----X
Atlantic Aviation Investments LLC,
Plaintiff-Respondent-Appellant,

-against-

M-6229
Index No. 602286/09

MatlinPatterson Global Advisers LLC,
et al.,
Defendants-Appellants-Respondents.

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

Defendants-appellants-respondents and plaintiffs-respondents-appellants having jointly moved for an enlargement of time in which to perfect their appeal and cross appeal from the order of the Supreme Court, New York County, entered on or about April 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 to the extent of enlarging the time in which to perfect the appeal and cross appeal to the June 2011 Term, with leave to seek further enlargements.

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 January 25, 2011.

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

-----x
Elizabeth Hinkle,
Plaintiff-Appellant,

-against-

M-6113
Index No. 100908/07

Jonathan R. Trejo, et al.,
Defendants-Respondents.
-----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, with no further enlargements 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 January 25, 2011.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
Karla Moskowitz
Rolando T. Acosta
Helen E. Freedman, Justices.

-----X
In the Matter of

Giovanni D. and Andre B.,

Dependent Children Under the Age
of 18 Years Alleged to be Abused
and/or Neglected Under Article 10
of the Family Court Act.

M-5450
Docket Nos. NN22345/07
NN22346/07

Administration for Children's
Services,
Petitioner-Respondent,

Wilner G. B.,
Respondent-Appellant.

Stella Terhune, Esq.,
Attorney for the Children.

-----X

Respondent-appellant father having moved for leave to prosecute, as a poor person, the appeal from orders of the Family Court, Bronx County, entered on or about September 20, 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, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, New York 11791, Telephone No. (516) 921-8800, as counsel for purposes of prosecuting the appeal; (2) directing

January 25, 2011

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:



Susan Rojas
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 January 25, 2011.

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

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

-against-

M-5885
Ind. No. 1402/08

Maurice Newman,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of resentence of the Supreme Court, New York County, rendered on or about November 19, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

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

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of resentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

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

Enter:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 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

Neamiah M.,

A Dependent Child Under 18 Years
of Age Alleged to be Abused and/or
Neglected Under Article 10 of the
Family Court Act.

M-5901
Docket No. NN45651/10

Commissioner of Social Services of
the City of New York,
Petitioner-Respondent,

Donna M.,
Respondent-Appellant.

Steven Banks, Esq., The Legal Aid
Society, Juvenile Rights Division,
Attorney 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, New York County, entered on or about October 29, 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, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, Telephone No. (516) 921-8800, as counsel for purposes of prosecuting the appeal; (2) directing

January 25, 2011

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 January 25, 2011.

Present - Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
Karla Moskowitz
Rolando T. Acosta
Helen E. Freedman, Justices.

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

-against-

M-5691
Ind. No. 33035C/09

Luc Etienne,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about July 1, 2010, for leave to prosecute the appeal as a poor person, 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 only to the extent of deeming the notice of appeal as timely filed.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101, 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 January 25, 2011.

Present - Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
Karla Moskowitz
Rolando T. Acosta
Helen E. Freedman, Justices.

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

-against-

M-5696
Ind. No. 4084/09

Donald M. Miller,
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about July 14, 2010, for leave to prosecute the appeal as a poor person, 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 only to the extent of deeming the notice of appeal as timely filed.

The motion, to the extent that it seeks poor person relief, is denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101, setting forth the terms of defendant's retainer agreement with trial counsel, Jeff Chabrowe, Esq., as well as the amount and sources of funds for trial counsel's fee, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by 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 January 25, 2011.

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

-----X
James Lastra,
Plaintiff-Appellant,

-against-

M-5501
Index No. 251372/09

Barnes & Noble,
Defendant-Respondent.
-----X

Plaintiff-appellant having moved for a stay of all proceedings herein and in other certain related cases pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about September 21, 2010, and for related relief,

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

It is ordered that the motion is denied.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
Helen E. Freedman
James M. Catterson
Dianne T. Renwick
Leland G. DeGrasse, Justices.

-----X
Omni Contracting Company, Inc.,
Plaintiff-Appellant,

-against-

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

M-5964
Index Nos. 603812/08
105634/07

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the consolidated appeals from the orders of the Supreme Court, New York County, entered on or about November 18, 2009 (mot. seq. no. 001), March 9, 2010 (mot. seq. no. 002), and June 29, 2010 (mot. seq. no. 003), respectively,

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 consolidated appeals 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 January 25, 2011.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
James M. Catterson
Dianne T. Renwick
Leland G. DeGrasse, Justices.

-----x
860 Nostrand Associates, LLC,
Plaintiff-Respondent,

-against-

M-5685
Index No. 602504/08

G. Willi-Food International, Ltd.,
Defendant/Third-Party
Plaintiff-Appellant,

-against-

Third Party
Index No. 590074/09

Eli Biran and Arie Steiner,
Third-Party Defendants-Respondents.

-----x

Appeals having been taken to this Court by defendant/third-party plaintiff from orders of the Supreme Court New York County, entered on or about January 11, 2010 and January 15, 2010 (mot. seq. no. 003), respectively,

And defendant/third-party plaintiff having moved for consolidation of the aforesaid appeals,

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

It is ordered that the motion is granted to the extent of permitting appellant to prosecute the appeals upon 9 copies of one record and one set of appellant's points covering the appeals and enlarging the time in which to perfect the consolidated appeals to the May 2011 Term. The attention of the parties is directed to 22 NYCRR §600.11.

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 January 25, 2011.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
Karla Moskowitz
Rolando T. Acosta
Helen E. Freedman, Justices.

-----X

2626 BWAY LLC,
Plaintiff-Appellant,

M-5667

M-5803

-against-

Index No. 106287/09

Broadway Metro Associates, LP,
et al.,
Defendants-Respondents.

-----X

Plaintiff-appellant having moved (M-5667) for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about January 22, 2010,

And defendants-respondents having cross moved (M-5803) to dismiss the aforesaid appeal for failure to timely perfect,

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

It is ordered that the motion (M-5667) is granted to the extent of enlarging the time in which to perfect the appeal to on or before March 21, 2011 for the June 2011 Term. The cross motion (M-5803) to dismiss the appeal is granted unless the appeal is so perfected.

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 January 25, 2011.

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

-----X
Armand F. Retamozzo,

Claimant,

-against-

Andrew Lavcott Bluestone,

Defendant.
-----X

M-5997
Appellate Term
Docket No. 570343/10
NSC 2128/09

A purported appeal having been taken by claimant from an order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about July 19, 2010 and from the order of said court entered on or about October 12, 2010, denying claimant's motion for reargument and/or for leave to appeal to this Court from the order entered July 19, 2010,

And claimant having moved for leave to prosecute, as a poor person, the purported appeal, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief,

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

It is ordered that the motion is denied, claimant having not sought leave from this Court to appeal from the aforesaid Appellate Term orders (CPLR §5703).

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 January 25, 2011.

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

-----X
Decima Jno-Baptiste,

Plaintiff-Respondent,

-against-

M-5879
Index No. 303773/07

Paul J. Buckley,

Defendant-Appellant.
-----X

Defendant-appellant having moved for an order staying the trial in the above-entitled action pending hearing and determination of the appeal taken from the order of the Supreme Court, Bronx County, entered on or about July 15, 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.

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 January 25, 2011.

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

-----X
Molecular Securities, Inc.,

Plaintiff-Appellant-Respondent,

SEALED

-against-

M-6137

Index No. 602892/08

Tyratech, Inc.,

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

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 7, 2010 (mot. seq. no. 005),

And defendant-respondent-appellant having moved for an order enlarging the record on appeal to include (1) transcript of oral argument of plaintiff's motion for summary judgment and defendant's cross motion for summary judgment held on March 5, 2010, and (2) defendant's reply papers in further support of defendant's cross-motion for summary judgment, dated February 23, 2010, and all exhibits thereto,

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-respondent-appellant to immediately serve and file 9 copies of the aforesaid documents and exhibits in the form of a supplemental record on appeal with the Clerk of 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 January 25, 2011.

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

-----X
Rosemary Maniscalco,
Plaintiff-Respondent-Appellant,

-against-

New York City Transit Authority, et al.,
Defendants-Appellants-Respondents.

M-6064
M-6
Index No. 113043/09

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about June 23, 2010, and the direct appeal having been perfected,

And plaintiff-respondent-appellant having moved for an extension of time in which to file her respondent's brief on the direct appeal and to perfect her cross appeal (M-6064),

And defendants-appellants-respondents having cross-moved for an order enlarging the joint record on appeal to include plaintiff's moving papers from the aforesaid motion (M-6064) and directing plaintiff to serve and file her cross-appellant's brief for a date certain, and for related relief (M-6),

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

Ordered that plaintiff-respondent-appellant's motion (M-6064) is granted to the extent of adjourning the perfected direct appeal to the June 2011 Term and directing said plaintiff to file her respondent's brief on the direct appeal and perfect her cross appeal on or before March 21, 2011 for said June 2011 Term. The cross motion is granted to the same extent, accordingly and is otherwise denied (M-6).

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 January 25, 2011.

PRESENT: Hon. David Friedman, Justice Presiding,
Leland G. DeGrasse
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

-----x
In the Matter of the Application of
Bennie G.,
Petitioner-Appellant,

For a Judgment, etc.,

M-5880
Index No. 400616/09

-against-

Executive Director, Kirby Psychiatric
Center, et al.,
Respondents-Respondents.
-----x

An order of this Court (M-4491) having been entered October 19, 2010, dismissing the appeal from the order of the Supreme Court, New York County, entered on or about June 19, 2009, for failure to timely perfect,

And petitioner having moved for reargument of the aforesaid order of this Court (M-4491) entered on October 19, 2010, or in the alternative for vacatur of said order,

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 January 25, 2011.

Present: Hon. John W. Sweeny, Jr., Justice Presiding,
James M. Catterson
Karla Moskowitz
Diane T. Renwick
Roselyn H. Richter, Justices.

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

Respondent,

-against-

M-5370
Ind. No. 8131/97

David Bobbitt,

Defendant-Appellant.
-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about June 3, 2010, denying resentence, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from counsel for defendant dated January 6, 2011, and due deliberation having been had thereon,

It is ordered that the motion and appeal are deemed withdrawn in accordance with the aforesaid correspondence.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

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

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

Rafael Agosto,

Petitioner,

M-5373

Index No. 341057/08

-against-

Ind. No. 4275/93

Supreme Court, Bronx County, et al.,

Respondents.
-----X

A decision and order of this Court having been entered on March 26, 1998 (Appeal No. 649), unanimously affirming the judgment of the Supreme Court, Bronx County, rendered on or about March 24, 1995,

And petitioner having moved for an order of this Court granting certain relief pursuant to CPLR Article 78, and for related relief,

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

Ordered that the motion is denied.

ENTER:


CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on January 25, 2011.

Present: Hon. Leland G. DeGrasse, Justice Presiding,
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels
Nelson S. Román, Justices.

-----X
In the Matter of the Application of
Jerald Miller,
Petitioner-Appellant,

M-5584
For a Judgment Pursuant to Article 78 Index No. 401102/10
of the CPLR,

-against-

Raymond Kelly, Commissioner, etc.,
Respondent-Respondent.

-----X
An order of this Court having been entered on October 5, 2010 (M-3863), denying petitioner-appellant poor person relief in connection with an appeal from the order of Supreme Court, New York County, entered on or about July 7, 2010,

And petitioner having moved for reargument of the aforesaid order of this Court, and for related relief,

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

It is ordered that the motion is denied.

ENTER:


CLERK

CORRECTED ORDER – February 3, 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 January 25, 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

Tyrique Alexandra B. and
Xavion Liviro H.,

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

M-6090
Docket Nos. B957/09
B958/09

- - - - -

Catholic Guardian Society and Home
Bureau, et al.,
Petitioners-Respondents,

Alexandra B. B., also known as
Alexandria Bridget B.,
Respondent-Appellant.

- - - - -

Hal Silverman, Esq., Lawyers for Children,
Attorney for the Children.

-----x

Appeals having been taken to this Court by appellant mother from orders of Family Court, New York County, entered on or about January 6, 2010,

And respondent-appellant having moved for consolidation of the aforesaid appeals,

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

It is ordered that the motion is granted to the extent of permitting the appellant to prosecute the consolidated appeals upon 8 copies of one set of appellant points covering the consolidated appeals. The attention of the parties is directed to 22 NYCRR § 600.11. The time to perfect the consolidated appeals is enlarged to the May 2011 Term.

E N T E R:



Clerk.