

February 18, 2016

**CASES**

4                    No. 13  
The People &c.,  
    Respondent,  
    v.  
Gordon Gross,  
    Appellant.

Order affirmed.  
Opinion by Judge Abdus-Salaam.  
Judges Pigott, Stein and Fahey concur.  
Judge Rivera dissents in an opinion.  
Chief Judge DiFiore and Judge Garcia took no part.

4                    No. 18  
The People &c.,  
    Respondent,  
    v.  
Marcus D. Hogan,  
    Appellant.

Order affirmed.  
Opinion by Judge Stein.  
Judges Pigott, Abdus-Salaam and Fahey concur.  
Judge Rivera dissents in an opinion.  
Chief Judge DiFiore and Judge Garcia took no part.

1                    No. 2  
The People &c.,  
    Respondent,  
    v.  
Anthony Jones,  
    Appellant.

Order affirmed.  
Opinion by Judge Rivera.  
Judges Pigott, Abdus-Salaam, Stein and Fahey  
concur.  
Chief Judge DiFiore and Judge Garcia took no part.

2                    No. 14  
The People &c.,  
    Respondent,  
    v.  
Jin Cheng Lin,  
    Appellant.

Order affirmed.  
Opinion by Judge Rivera.  
Judges Pigott, Abdus-Salaam, Stein and Fahey  
concur.  
Chief Judge DiFiore and Judge Garcia took no part.

1                    No. 8  
In the Matter of Monarch Consulting, Inc., et  
al.,  
                    Respondents,  
                    v.  
National Union Fire Insurance Company of  
Pittsburgh, PA,  
                    Appellant.

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In the Matter of National Union Fire  
Insurance Company of Pittsburgh, PA,  
                    Appellant,  
                    v.  
Priority Business Services, Inc., formerly  
known as Inland Valley Staffing Services,  
&c.,  
                    Respondent.

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In the Matter of National Union Fire  
Insurance Company of Pittsburgh, PA,  
                    Appellant,  
                    v.  
Source One Staffing, LLC.,  
                    Respondent.

4                    No. 17  
The People &c.,  
                    Respondent,  
                    v.  
Christopher A. Nicholson, &c.,  
                    Appellant.

Order reversed, with costs, and (1) in Matter of Monarch Consulting, Inc. v National Union Fire Insurance Company of Pittsburgh, PA, petition to stay arbitration denied and cross petition to compel arbitration granted; (2) in Matter of National Union Fire Insurance Company of Pittsburgh, PA v Priority Business Services, Inc., petition to compel arbitration granted; and (3) in Matter of National Union Fire Insurance Company of Pittsburgh, PA v Source One Staffing, LLC, petition to compel arbitration granted. Opinion by Judge Stein.

Judges Pigott, Rivera, Abdus-Salaam and Fahey concur.

Chief Judge DiFiore and Judge Garcia took no part.

Order affirmed.

Opinion by Judge Rivera.

Judges Pigott, Abdus-Salaam, Stein and Fahey concur.

Chief Judge DiFiore and Judge Garcia took no part.

1                    No. 73 SSM 2  
In the Matter of Ming Tung, et al.,  
                  Appellants,  
                  v.  
China Buddhist Association, et al.,  
                  Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order of the Appellate Division affirmed, without costs, for the reasons stated by Justice Judith J. Gische at the Appellate Division, First Department (124 AD3d 13 [2014]), and certified question not answered upon the ground that it is unnecessary.  
Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

**MOTIONS**

2                    Mo. No. 2015-1369  
In the Matter of AAA Carting and Rubbish  
Removal, Inc.,  
                  Appellant,  
          v.  
Town of Clarkstown, et al.,  
                  Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

3                    Mo. No. 2015-1374  
The People &c. ex rel. Rafael Agosto,  
                  Appellant,  
          v.  
Paul Chappius, Jr., &c.,  
                  Respondent.

Motion for reargument of motion for leave to appeal denied.  
Chief Judge DiFiore and Judge Garcia took no part.

4                    Mo. No. 2015-1386  
In the Matter of Ralph Alicea,  
                  Appellant,  
          v.  
Anthony Annucci, &c.,  
                  Respondent.

Motion for leave to appeal denied.  
Judge Garcia took no part.

4                    Mo. No. 2016-181  
In the Matter of Brooke S.B.,  
                  Respondent,  
          v.  
Elizabeth A. C.C.,  
                  Respondent.

Motion by Richard J. Adago et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.  
Judge Fahey took no part.

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R. Thomas Rankin, Esq., Attorney for the  
Child,  
                  Appellant.

Mo. No. 2016-168  
Beck Chevrolet Co., Inc.,  
Appellant,  
v.  
General Motors LLC,  
Respondent.

Motion by New York State Automobile Dealers Association for leave to file a brief amicus curiae on consideration of the certified questions herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

Mo. No. 2016-173  
Beck Chevrolet Co., Inc.,  
Appellant,  
v.  
General Motors LLC,  
Respondent.

Motion by Alliance of Automobile Manufacturers et al. for leave to appear amici curiae on consideration of the certified questions herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

2 Mo. No. 2015-1344  
Gerald W. Bennett, et al.,  
Plaintiffs,  
Alan M. Wunderlich, &c.,  
Respondent,  
v.  
Atomic Products Corporation,  
et al.,  
Appellants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

4 Mo. No. 2015-1233  
Michael J. Carlson, Sr., &c.,  
Appellant,  
v.  
American International Group, Inc., et al.,  
Respondents.

Motion for leave to appeal granted.  
Judge Garcia took no part.

4 Mo. No. 2015-1334  
Michael J. Carlson, Sr., &c.,  
Appellant,  
v.  
American International Group, Inc., et al.,  
Respondents.

Motion by New York State Trial Lawyers  
Association for leave to appear amicus curiae on the  
motion for leave to appeal herein granted and the  
brief is accepted as filed.  
Judge Garcia took no part.

2 Mo. No. 2016-180  
Jean James Charite, et al.,  
Appellants,  
v.  
Duane Reade, Inc., et al.,  
Respondents,  
et al.,  
Defendants.

Motion by National Employment Lawyers  
Association/New York for leave to appear amicus  
curiae on the appeal herein granted only to the extent  
that the proposed brief is accepted as filed. Three  
copies of the brief must be served and an original  
and nine copies filed within seven days.

2 Mo. No. 2015-1382  
Richard (Ricardo) Cordero,  
Appellant,  
v.  
Viviana Barreiro-Cordero, et al.,  
Respondents.

Motion for reargument of motion for leave to appeal  
denied.  
Chief Judge DiFiore and Judge Garcia took no part.

2 Mo. No. 2015-1381  
The People &c.,  
Respondent,  
v.  
Anthony Cummings,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

2 Mo. No. 2015-1372  
In the Matter of Joseph T. Delgrande,  
Appellant,  
v.  
Greenville Fire District, et al.,  
Respondents.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.  
Judge Garcia took no part.

2 Mo. No. 2015-1359  
In the Matter of Jeff Durham, et al.,  
Appellants,  
v.  
Elizabeth R. Berlin, &c.,  
Respondent.

Motion for leave to appeal denied.  
Judge Garcia took no part.

4 Mo. No. 2015-1352  
The People &c.,  
Respondent,  
v.  
Kenneth G. Edmonds,  
Appellant.

Motion for leave to appeal denied.  
Judge Garcia took no part.

2 Mo. No. 2015-1312  
In the Matter of ELT Harriman, LLC,  
Appellant,  
v.  
Assessor of Town of Woodbury, et al.,  
Respondents;  
Board of Education of the Monroe-Woodbury  
Central School District,  
Intervenor-Respondent.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.  
Judge Garcia took no part.

2 Mo. No. 2015-1397  
In the Matter of ELT Harriman, LLC,  
Appellant,  
v.  
Assessor of Town of Woodbury, et al.,  
Respondents;  
Board of Education of the Monroe-Woodbury  
Central School District,  
Intervenor-Respondent.

Motion by the National Association of Property Tax  
Attorneys for leave to file a brief amicus curiae on  
the motion for leave to appeal herein granted and the  
brief is accepted as filed.  
Judge Garcia took no part.

1                    Mo. No. 2015-1339  
In the Matter of Leonardo Enriquez,  
                         Respondent,  
                         v.  
Department of Housing Preservation and  
Development of the City of New York,  
                         Appellant.

Motion for leave to appeal granted.  
Judge Garcia took no part.

1                    Mo. No. 2015-1350  
In the Matter of the Liquidation of The  
Insurance Corporation of New York.  
  
First Financial Insurance Company,  
                         Appellant,  
                         v.  
Insurance Corporation of New York,  
                         Respondent.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.  
Judge Garcia took no part.

3                    Mo. No. 2016-156  
Friends of Thayer Lake LLC, et al.,  
                         Appellants,  
                         v.  
Phil Brown, et al.,  
                         Respondents,  
et al.,  
                         Defendant.

Motion by Adirondack Landowners Association for  
leave to file a brief amicus curiae on the appeal  
herein granted and the proposed brief is accepted as  
filed.

3                    Mo. No. 2016-164  
Friends of Thayer Lake LLC, et al.,  
                         Appellants,  
                         v.  
Phil Brown, et al.,  
                         Respondents,  
et al.,  
                         Defendant.

Motion by Adirondack Mountain Club, Inc. et al. for  
leave to file a brief amici curiae on the appeal herein  
granted and the proposed brief is accepted as filed.  
Three copies of the brief must be served and an  
original and nine copies filed within seven days.

3 Mo. No. 2016-166  
Friends of Thayer Lake LLC, et al.,  
Appellants,  
v.  
Phil Brown, et al.,  
Respondents,  
et al.,  
Defendant.

Motion by Pacific Legal Foundation et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

3 Mo. No. 2016-171  
Friends of Thayer Lake LLC, et al.,  
Appellants,  
v.  
Phil Brown, et al.,  
Respondents,  
et al.,  
Defendant.

Motion by Empire State Forest Products Association for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

1 Mo. No. 2015-1360  
In the Matter of Alexander Gliklad,  
Respondent,  
v.  
Michael Chernoi, &c.,  
Respondent,  
ERIP LLC,  
Appellant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

1 Mo. No. 2015-1380  
The People &c.,  
Respondent,  
v.  
Leon Hutchinson,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

2 Mo. No. 2015-1370  
The People &c.,  
Respondent,  
v.  
James Hyams,  
Appellant.

Motion for leave to appeal denied.  
Judge Garcia took no part.

2 Mo. No. 2015-1356  
Imperium Insurance Company, &c.,  
Appellant,  
v.  
Utica First Insurance Company,  
Respondent.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.  
Judge Garcia took no part.

2 Mo. No. 2015-1347  
In the Matter of NahShon Jackson,  
Appellant,  
v.  
William C. Donnino, &c.,  
Respondent.

Motion for leave to appeal dismissed upon the  
ground that the orders sought to be appealed from do  
not finally determine the proceedings within the  
meaning of the Constitution.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

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In the Matter of Debora Jackson, et al.,  
Petitioners,  
v.  
Michael Capra, &c.,  
Respondent.  
NahShon Jackson,  
Nonparty-Appellant.

2 Mo. No. 2015-1346  
In the Matter of Melanie K. (Anonymous).

Suffolk County Department of Social  
Services,

Respondent;  
Dolores F. (Anonymous),  
Appellant.  
(And Other Proceedings.)

Motion for leave to appeal dismissed upon the  
ground that the order sought to be appealed from  
does not finally determine the proceedings within the  
meaning of the Constitution.  
Judge Garcia took no part.

1 Mo. No. 2016-158  
In the Matter of Kenneth Cole Productions,  
Inc., Shareholder Litigation

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Erie County Employees Retirement System,  
Appellant,

v.  
Michael J. Blitzer, et al.,  
Respondents.

Motion by Eastern New York Laborers' District  
Council for leave to file a brief amicus curiae on the  
appeal herein granted and the proposed brief is  
accepted as filed. Three copies of the brief must be  
served and an original and nine copies filed within  
seven days.

4 Mo. No. 2015-1271  
In the Matter of Level 3 Communications,  
LLC et al.,

Appellants,  
v.  
Erie County, et al.,  
Respondents.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.  
Chief Judge DiFiore and Judge Garcia took no part.

3 Mo. No. 2015-1270  
In the Matter of Level 3 Communications,  
LLC,

Appellant,  
v.  
Essex County,  
Respondent,  
et al.,  
Respondents.

Motion for reargument of motion for leave to appeal  
denied.  
Chief Judge DiFiore and Judge Garcia took no part.

2                    Mo. No. 2015-1301  
In the Matter of Robert Lynn,  
                         Respondent,  
                         v.  
Town of Clarkstown, et al.,  
                         Appellants.  
(Appellate Division No. 2013-08823).

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

2                    Mo. No. 2015-1302  
In the Matter of Robert Lynn,  
                         Respondent,  
                         v.  
Town of Clarkstown, et al.,  
                         Appellants.  
(Appellate Division No. 2014-01142).

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

2                    Mo. No. 2015-1387  
In the Matter of Widley M. (Anonymous),  
                         Appellant.

Motion for leave to appeal denied.  
Judge Garcia took no part.

1                    Mo. No. 2016-92  
The People &c.,  
                         Appellant,  
                         v.  
Daviel McCummings,  
                         Respondent.

Motion to vacate this Court's January 8, 2016 preclusion order granted.

3                    Mo. No. 2015-1368  
In the Matter of Jonathan Mills,  
                         Appellant,  
                         v.  
Lieutenant Shumaker, &c., et al.,  
                         Respondents.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

2 Mo. No. 2015-1357

Barbara Osarczuk, et al.,  
Respondents,

v.

Associated Universities, Incorporated, &c.,  
Appellant.

Joseph Rombola, et al.,  
Intervenors-Respondents.

(And A Third-Party Action.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

Motion for a stay dismissed as academic.

Judge Garcia took no part.

1 Mo. No. 2015-1383

In the Matter of Port Authority of New York  
and New Jersey,  
Appellant,

v.

Port Authority Police Sergeants Benevolent  
Association,  
Respondent.

(Appellate Division No. 13970N).

Motion for leave to appeal denied.

Judge Garcia took no part.

1 Mo. No. 2015-1384

In the Matter of Port Authority of New York  
and New Jersey,  
Appellant,

v.

Port Authority Police Sergeants Benevolent  
Association,  
Respondent.

(Appellate Division No. 13971N).

Motion for leave to appeal denied.

Judge Garcia took no part.

1 Mo. No. 2015-1363

Mirta Ramos,  
Appellant,

v.

Renata Vanja Weber, M.D., et al.,  
Respondents.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]).

Judge Garcia took no part.

4                    Mo. No. 2015-1373  
Daniel Redeye,  
Appellant,  
v.  
Progressive Insurance Company,  
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

3                    Mo. No. 2015-1353  
In the Matter of Rensselaer County Sheriff's  
Department,  
Appellant,  
v.  
New York State Division of Human Rights et  
al.,  
Respondents.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument or leave to appeal to this Court, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.  
Judges Stein and Garcia took no part.

2                    Mo. No. 2015-1365  
David Rivera,  
Appellant,  
v.  
Department of Housing Preservation and  
Development of the City of New York,  
Respondents,  
et al.,  
Defendants.

Motion for leave to appeal granted.  
Judge Garcia took no part.

2                    Mo. No. 2015-1341  
Karen Sargente, &c.,  
Appellant,  
v.  
Neville Mobarakai, et al.,  
Respondents,  
et al.,  
Defendant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

2 Mo. No. 2015-1342  
Marvin Staten, &c., et al.,  
Appellants,  
v.  
City of New York, et al.,  
Respondents,  
et al.,  
Defendants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

1 Mo. No. 2015-1358  
Xiong Ping Tang, et al.,  
Appellants,  
v.  
Jonathan Marks,  
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Garcia took no part.

3 Mo. No. 2015-1362  
In the Matter of Mary Ann Tango,  
Appellant,  
v.  
Commissioner of Labor,  
Respondent.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.  
Judge Garcia took no part.

2 Mo. No. 2015-1376  
The People &c.,  
Respondent,  
v.  
Jose Tigre,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

3 Mo. No. 2015-1375  
Eric Tolliver,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for leave to appeal denied.  
Judge Garcia took no part.

Mo. No. 2015-1268  
The People &c. ex rel. Jose Vazquez,  
Appellant,  
v.  
David Unger, &c., et al.,  
Respondents.

On the Court's own motion, appeal transferred, without costs, to the Appellate Division, Fourth Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

Mo. No. 2016-174  
In the Matter of Viking Pump, Inc. and  
Warren Pumps, LLC,  
Insurance Appeals.  
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Viking Pump, Inc. and Warren Pumps, LLC,  
Appellants,  
TIG Insurance Company, et al.,  
Respondents.

Motion by Olin Corporation for leave to appear amicus curiae on consideration of the certified questions herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.  
Judge Garcia took no part.

Mo. No. 2016-191  
In the Matter of Viking Pump, Inc. and  
Warren Pumps, LLC,  
Insurance Appeals.  
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Viking Pump, Inc. and Warren Pumps, LLC,  
Appellants,  
TIG Insurance Company, et al.,  
Respondents.

Motion by ITT Corporation for leave to appear amicus curiae on consideration of the certified questions herein granted only to the extent that the proposed brief is accepted as filed.  
Judge Garcia took no part.

2                    Mo. No. 2015-1364  
The People &c. ex rel. Stoker Olukoton  
Williams,  
                  Appellant,  
          v.  
Charles Ewald, &c.,  
                  Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.