

May 10, 2016

CASES

4                    No. 68  
The People &c.,  
    Respondent,  
    v.  
Jonathan J. Connolly,  
    Appellant.

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

3                    No. 55  
Friends of Thayer Lake LLC, et al.,  
    Appellants,  
    v.  
Phil Brown, et al.,  
    Respondents,  
et al.,  
    Defendant.

Order modified, without costs, by denying  
defendants' motions for summary judgment and, as so  
modified, affirmed, in a memorandum.  
Chief Judge DiFiore and Judges Pigott, Rivera,  
Abdus-Salaam, Stein, Fahey and Garcia concur.

2                    No. 58  
The People &c.,  
    Appellant,  
    v.  
Wayne Henderson,  
    Respondent.

Order reversed and case remitted to the Appellate  
Division, Second Department, for consideration of  
the facts and issues raised but not determined on the  
appeal to that court.  
Opinion by Judge Pigott.  
Chief Judge DiFiore and Judges Rivera, Abdus-  
Salaam, Stein, Fahey and Garcia concur.

3                    No. 63  
In the Matter of Susan M. Kent, &c.,  
    Respondent,  
    v.  
Jerome Lefkowitz, &c., et al.,  
    Appellants.

Order reversed, without costs, and judgment of  
Supreme Court, Albany County, reinstated.  
Opinion by Chief Judge DiFiore.  
Judges Pigott, Rivera, Abdus-Salaam and Garcia  
concur.  
Judge Fahey dissents in an opinion.  
Judge Stein took no part.

1                    No. 52  
Hon. Susan Larabee, et al.,  
    Appellants,  
    v.  
The Governor of the State of New York, et al.,  
    Respondents.

Order affirmed, without costs.  
Opinion Per Curiam.  
Judges Pigott, Rivera, Abdus-Salaam, Fahey and  
Garcia concur.  
Chief Judge DiFiore and Judge Stein took no part.

2                    No. 57  
Adam Plotch,  
    Appellant,  
    v.  
Citibank, N.A.,  
    Respondent.

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

1                    No. 53  
Arlene R. Silverman, &c.,  
    Appellant,  
    v.  
Sheldon Silver, &c., et al.,  
    Respondents.

Order affirmed, without costs.  
Opinion Per Curiam.  
Judges Pigott, Rivera, Abdus-Salaam, Fahey and  
Garcia concur.  
Chief Judge DiFiore and Judge Stein took no part.

## MOTIONS

3                    Mo. No. 2016-243  
In the Matter of Keshia M. Barron,  
    Appellant;  
State of New York Office of Mental Health,  
    Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

2                    Mo. No. 2016-192  
In the Matter of Chrystal M. Bathjer,  
    Respondent,  
    v.  
Jaavel L. McCrae,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2016-249  
In the Matter of Sandra Berlin, deceased.  
  
Martin Berlin,  
    Appellant;  
Leonard Berlin,  
    Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

2                    Mo. No. 2016-477  
In the Matter of Joel R. Brandes, a disbarred  
attorney.

Motion to preclude the Grievance Committee of the Tenth Judicial District from appearing as a respondent on the appeal herein denied; motion for a preference denied.  
Judges Rivera and Stein took no part.

1                    Mo. No. 2016-282  
Bridge Street Contracting Inc.,  
Appellant,  
EMFT, LLC, et al.,  
Plaintiffs,

v.

Everest National Insurance Company,  
Respondent,  
Scottsdale Insurance Company,  
Defendant,  
CastlePoint Insurance Company,  
Proposed Intervenor-Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1                    Mo. No. 2016-297  
Bridge Street Contracting Inc.,  
Respondent,  
EMFT, LLC, et al.,  
Plaintiffs,

v.

Everest National Insurance Company,  
Respondent,  
Scottsdale Insurance Company,  
Defendant,  
CastlePoint Insurance Company,  
Proposed Intervenor-Appellant.

Motion by CastlePoint Insurance Company for leave to appeal dismissed as untimely (see CPLR 5513[b]; CPLR 2103[b][2]).

2                    Mo. No. 2016-286  
The People &c.,  
Respondent,

v.

Glendon Brown,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-314  
Melanie Butler,  
Respondent,  
v.  
Magnet Sports & Entertainment Lounge, Inc.,  
&c.,  
Defendant,  
Morais Dicks,  
Appellant.

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.

2 Mo. No. 2016-216  
Edgardo Carrillo, et al.,  
Appellants,  
v.  
Circle Manor Apartments,  
Respondent.  
(And a Third-Party Action.)

Motion for leave to appeal denied.

2 Mo. No. 2016-278  
James Carver, &c., et al.,  
Appellants,  
v.  
County of Nassau et al.,  
Respondents,  
et al.,  
Defendants.  
(Appellate Division Nos. 2014-08064 and 2014-08065.)

Motion for leave to appeal denied.

2 Mo. No. 2016-280  
James Carver, &c., et al.,  
Appellants,  
v.  
County of Nassau et al.,  
Respondents.  
(Appellate Division No. 2013-11446.)

Motion, insofar as it seeks leave to appeal as against defendants County of Nassau and Nassau County Police Department, 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 leave to appeal otherwise denied.

1                    Mo. No. 2016-257  
CIFG Assurance North America, Inc.,  
Appellant,  
v.  
Credit Suisse Securities (USA) LLC,  
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1                    Mo. No. 2016-312  
CIFG Assurance North America, Inc.,  
Appellant,  
v.  
Credit Suisse Securities (USA) LLC,  
Respondent.

Motion by the Association of Financial Guaranty Insurers for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

1                    Mo. No. 2016-140  
Julie Conason, et al.,  
Respondents,  
v.  
Megan Holding, LLC, et al.,  
Appellants.

Motion dismissed upon the ground that no action or proceeding is presently before the Court. An application to enforce this Court's remittitur, if such application properly lies, is by appeal, not motion (see Karger, Powers of the New York Court of Appeals § 5:30, at 193-194 [3d ed rev]).

2                    Mo. No. 2016-326  
In the Matter of Joseph T. Delgrande,  
Appellant,  
v.  
Greenville Fire District, et al.,  
Respondents.

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

3                    Mo. No. 2016-211  
In the Matter of George A. Donaldson &  
Sons, Inc.,  
Respondent,  
v.  
Assessor of the Town of Santa Clara, et al.,  
Appellants.  
(And Other Proceedings.)

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

2 Mo. No. 2016-299  
In the Matter of Jake W.E. (Anonymous).

Suffolk County Department of Social  
Services,  
Respondent;  
Jonathan S. (Anonymous),  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

3 Mo. No. 2016-283  
The People &c. ex rel. Trevis L. Funches,  
Appellant,  
v.  
William Lee, &c.,  
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2016-265  
In the Matter of Ruth A. Galuski,  
Appellant,  
v.  
New York State Division of Military and  
Naval Affairs et al.,  
Respondents.  
Workers' Compensation Board,  
Respondent.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

2 Mo. No. 2016-214  
In the Matter of David Gandin,  
Respondent,  
v.  
Unified Court System of State of New York,  
et al.,  
Appellants.

Motion for leave to appeal denied.  
Chief Judge DiFiore took no part.

1 Mo. No. 2016-291  
The People &c.,  
Respondent,  
v.  
Liem Ha,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-285  
The People &c.,  
Appellant,  
v.  
Kenyatta James, Also Known as Nate  
Beander,  
Respondent.

Motion for reconsideration of this Court's February  
11, 2016 dismissal order denied.  
Judge Garcia took no part.

1 Mo. No. 2016-327  
Terry Lane,  
Respondent,  
v.  
Lydell Tyson,  
Appellant.

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.

1 Mo. No. 2016-271  
Dimitry Markov,  
Appellant,  
v.  
Spectrum Group International Inc., et al.,  
Respondents.

Motion, insofar as it seeks leave to appeal as against  
Stacks, LLC, dismissed upon the ground that as to  
that party the order sought to be appealed from does  
not finally determine the action within the meaning  
of the Constitution; motion for leave to appeal  
otherwise denied.

2 Mo. No. 2016-388  
The People &c.,  
Respondent,  
v.  
Mauro Palladino,  
Appellant.

Motion for leave to appeal denied.

2                    SSD 31  
Thomas Perkins, et al.,  
    Respondents,  
    v.  
Philip Barry,  
    Appellant,  
et al.,  
    Defendants.

Appeal, insofar as taken from that portion of the Appellate Division order which dismissed appellant's appeal, dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved; appeal otherwise dismissed without costs, by the Court sua sponte, upon the ground that the remaining portion of the Appellate Division order does not finally determine the action within the meaning of the Constitution.

1                    Mo. No. 2016-354  
Orrathai Pwangsunthie,  
    Appellant,  
    v.  
Marco Realty Associates, L.P., et al.,  
    Defendants,  
Dr. Jay's, Inc.,  
    Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1                    Mo. No. 2016-274  
In the Matter of Clifford M. Rigaud,  
    Appellant,  
    v.  
The City of New York, et al.,  
    Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

3                    Mo. No. 2016-258  
In the Matter of Michael Spirles,  
    Appellant,  
    v.  
Albert Prack, &c.,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2016-225  
A. Robert Tantleff, &c., et al.,  
    Appellants,  
    v.  
Kestenbaum & Mark, et al.,  
    Respondents.  
(And a Third-Party Action.)

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

3                    Mo. No. 2016-381  
In the Matter of Eric Tolliver,  
    Appellant,  
    v.  
Brian Fischer, &c.,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2016-277  
Tully Construction Co., Inc., et al.,  
    Appellants,  
    v.  
Illinois National Insurance Company,  
    Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4                    Mo. No. 2016-302  
In the Matter of Wilfred Turner, et al.,  
    Appellants,  
    v.  
County of Erie et al.,  
    Respondents.

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

1                    Mo. No. 2016-230  
Vista Developers Corp., &c.,  
    Appellant,  
    v.  
The Board of Managers of the Diocesan  
Missionary and Church Extensions Society of  
the Protestant Episcopal Church in the  
Diocese of New York,  
    Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2016-261

Sloan Zakheim,  
Appellant,

v.

Leading Insurance Services, Inc., &c.,  
Respondent,

et al.,  
Defendant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.