

June 6, 2017

**CASES**

1                    No. 54  
In the Matter of Senator Tony Avella, et al.,  
    Respondents,  
    v.  
City of New York, et al.,  
    Respondents,  
Queens Development Group, LLC, et al.,  
    Appellants.

Order affirmed, with costs.  
Opinion by Judge Wilson.  
Judges Rivera, Stein, Fahey and Garcia concur.  
Chief Judge DiFiore dissents in an opinion.

2                    No. 55  
The People &c.,  
    Respondent,  
    v.  
Otis Boone,  
    Appellant.

Reargument ordered and case set down for argument  
at a future session of the Court.  
Chief Judge DiFiore and Judges Rivera, Stein, Fahey  
and Garcia concur.  
Judge Wilson took no part.

1                    No. 57  
The Burlington Insurance Company,  
    Appellant,  
    v.  
NYC Transit Authority, et al.,  
    Respondents.

Judgment appealed from and order of the Appellate  
Division brought up for review reversed, with costs,  
plaintiff's motion for summary judgment on the first  
cause of action granted, defendants' cross motion for  
summary judgment on the first cause of action  
denied, and case remitted to the Appellate Division,  
First Department, for further proceedings in  
accordance with the opinion herein.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Garcia and Wilson  
concur.  
Judge Fahey dissents and votes to affirm in an  
opinion in which Judge Stein concurs.

1                    No. 59  
For the People Theatres of N.Y. Inc., &c.,  
    Plaintiff,  
JGJ Merchandise Corp., &c.,  
    Respondent,  
    v.  
City of New York, et al.,  
    Appellants.

-----  
Ten's Cabaret, Inc., &c., et al.,  
    Respondents,  
    v.  
City of New York, et al.,  
    Appellants.

2                    No. 60  
The People &c.,  
    Respondent,  
    v.  
Miguel Viruet,  
    Appellant.

1                    No. 62  
Robert E. Wilson, III,  
    Respondent,  
    v.  
Daniel Valente Dantas, et al.  
    Appellants,  
et al.,  
    Defendants.

Order reversed, without costs, and judgment granted  
in favor of the City of New York in accordance with  
the opinion herein.

Opinion by Judge Fahey.  
Judges Rivera, Stein, Garcia and Wilson concur.  
Chief Judge DiFiore took no part.

Order affirmed.  
Opinion by Judge Garcia.  
Chief Judge DiFiore and Judges Rivera and Fahey  
concur.  
Judge Wilson dissents in an opinion in which Judge  
Stein concurs.

Order, insofar as appealed from, affirmed, with costs,  
and certified question answered in the affirmative, in  
a memorandum.  
Chief Judge DiFiore and Judges Rivera, Stein and  
Fahey concur.  
Judge Wilson dissents in an opinion.  
Judge Garcia took no part.

**MOTIONS**

4                    Mo. No. 2017-381                    Motion for leave to appeal denied.  
In the Matter of Kevin A.B., Jr.

Lewis County Department of Social Services,  
Respondent;  
Deasia R.,  
Appellant.

1                    Mo. No. 2017-356                    Motion for leave to appeal denied.  
The People &c.,  
Respondent,  
v.  
James E. Bryant,  
Appellant.

3                    Mo. No. 2017-399                    Motion for leave to appeal denied.  
In the Matter of Timothy Bush,  
Appellant,  
v.  
John A. Lahtinen, &c. et al.,  
Respondents.

1                    Mo. No. 2017-324                    Motion for leave to appeal denied.  
Peter Davey,  
Appellant,  
v.  
Jones Hirsch Connors & Bull P.C.,  
Respondent.

2                    Mo. No. 2017-361                    Motion for leave to appeal denied.  
The People &c.,                    Motion for poor person relief dismissed as academic.  
Respondent,  
v.  
Anibal Fuentes,  
Appellant.

1                    Mo. No. 2017-402  
In the Matter of Jasmine G., et al., &c.

Pamela G.,  
    Appellant;  
Administration for Children's Services,  
    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.  
Motion for poor person relief dismissed as academic.

2                    Mo. No. 2017-382

The People &c.,  
    Respondent,  
    v.  
Keith Gordon,  
    Appellant.

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

4                    Mo. No. 2017-368

Joseph T. Grabar et al.,  
    Appellants,  
    v.  
Nichols, Long & Moore Construction Corp.,  
    Respondent.

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

3                    Mo. No. 2017-360  
In the Matter of Annarae I. et al., &c.

Broome County Department of Social Services,  
    Respondent;  
Jennifer K.,  
    Appellant;  
et al.,  
    Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2017-397  
Indigo Secured High Income Note, Ltd.,  
    Respondent,  
    v.  
HCI Secured Medical Receivables Special  
Purpose Corporation, et al.,  
    Defendants,  
Steven Nitsberg,  
    Appellant.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution (see Burke v Crosson, 85 NY2d 10, 18 n 5 [1995]).

2                    Mo. No. 2017-355  
In the Matter of JD's Towing & Battery  
Center, Inc.,  
    Appellant,  
    v.  
New York State Department of Motor  
Vehicles, et al.,  
    Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2017-377  
Maimouna Kamate,  
    Respondent,  
    v.  
MJ Cahn Co., et al.,  
    Appellants.

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.

4                    Mo. No. 2017-374  
In the Matter of Justin E. Kieffer,  
    Respondent,  
    v.  
Delema Defrain,  
    Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2017-388  
In the Matter of State of New York,  
Respondent,  
v.  
Avon L. (Anonymous),  
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2017-357  
In the Matter of Jeffery Louisias,  
Appellant,  
v.  
Donald Venettozzi, &c.,  
Respondent.

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

2 SSD 23  
Nella Manko,  
Appellant,  
v.  
David A. Gabay,  
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

2 SSD 24  
Nella Manko,  
Appellant,  
v.  
David A. Gabay, et al.,  
Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

2 Mo. No. 2017-385  
Nella Manko,  
Appellant,  
v.  
Lenox Hill Hospital,  
Respondent.

Motion for reconsideration of this Court's February 16, 2017 dismissal order denied.

3 Mo. No. 2017-358  
In the Matter of Leo A. Marino,  
Appellant,  
v.  
Anthony J. Annucci, &c.,  
Respondent.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that no substantial  
constitutional question is directly involved.  
Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

3 Mo. No. 2017-379  
In the Matter of Leo A. Marino,  
Appellant,  
v.  
Steven Racette, &c.,  
Respondent.

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

2 Mo. No. 2017-407  
In the Matter of Steven Mears,  
Appellant,  
v.  
Richard T. Andrias, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2017-206  
Monroe Equities, LLC,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2017-367  
In the Matter of Teddy Moore,  
Appellant,  
v.  
State of New York Grievance Committee for  
the Second, Eleventh, and Thirteenth Judicial  
Districts,  
Respondent.

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

1                    Mo. No. 2017-354  
Karlo Morato-Rodriguez,  
    Appellant,  
    v.  
Riva Construction Group, Inc.,  
    Defendant,  
1412 Broadway, LLC et al.,  
    Respondents.

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.

3                    Mo. No. 2017-352  
New York Insurance Association, Inc., et al.,  
    Appellants,  
et al.,  
    Plaintiffs,  
    v.  
State of New York, et al.,  
    Respondents.

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

1                    Mo. No. 2017-400  
In the Matter of Okolie Cyril,  
    Appellant,  
    v.  
New York City Department of Housing  
Preservation and Development et al.,  
    Respondents.

Motion for reargument of motion for leave to appeal denied.

3                    Mo. No. 2017-387  
In the Matter of Perry Pendell,  
    Appellant,  
    v.  
Columbia County Sheriff's Office et al.,  
    Respondents.

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.



3                    Mo. No. 2017-392  
In the Matter of Plainview-Old Bethpage  
Congress of Teachers et al.,  
                  Respondents,  
          v.  
New York State Health Insurance Plan et al.,  
                  Appellants,  
et al.,  
                  Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2017-366  
The People &c.,  
                  Respondent,  
          v.  
Robert E. Price,  
                  Appellant.

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

3                    Mo. No. 2017-391  
In the Matter of Roslyn Teachers Association  
et al.,  
                  Respondents,  
          v.  
New York State Health Insurance Plan et al.,  
                  Appellants,  
et al.,  
                  Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2017-401  
Sebastian Holdings, Inc.,  
                  Appellant,  
          v.  
Deutsche Bank, AG,  
                  Respondent.

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

2 Mo. No. 2017-364  
In the Matter of Bethanne Serwatka,  
Respondent,  
v.  
Joseph Serwatka,  
Appellant.

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.

2 Mo. No. 2017-384  
The People &c.,  
Respondent,  
v.  
Willie Shepard,  
Appellant.

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

1 Mo. No. 2017-393  
Robert Siegel,  
Appellant,  
v.  
The Dakota, Inc.,  
Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.  
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.

3 Mo. No. 2017-359  
In the Matter of Kenneth Smith,  
Appellant,  
v.  
Donald Venettozzi, &c.,  
Respondent.

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

2 Mo. No. 2017-404  
The People &c.,  
Respondent,  
v.  
Herbert Sweat,  
Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2017-353  
In the Matter of Marcus Sykes,  
    Respondent,  
    v.  
City of New York, et al.,  
    Appellants.

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

4                    Mo. No. 2017-362  
Gasper A. Tirone et al., &c.,  
    Respondents,  
    v.  
Deborah A. Buczek,  
    Appellant,  
et al.,  
    Defendants.

Motion for reargument denied.

1                    Mo. No. 2017-115  
U.S. Bank National Association,  
    Appellant,  
    v.  
DLJ Mortgage Capital, Inc.,  
    Respondent.

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

1                    Mo. No. 2017-140  
U.S. Bank National Association,  
    Respondent-Appellant,  
    v.  
DLJ Mortgage Capital, Inc.,  
    Appellant-Respondent,  
et al.,  
    Defendant.

Motion by appellant-respondent for leave to appeal granted.  
Motion by respondent-appellant for leave to appeal dismissed as untimely.  
Judge Wilson took no part.

1                    Mo. No. 2017-363  
VFP Investments I LLC,  
    Appellant,  
    v.  
Foot Locker, Inc.,  
    Respondent,  
et al.,  
    Defendants.

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

2                    Mo. No. 2017-403  
In the Matter of Cody W.

Motion for leave to appeal denied.

Suffolk County Department of Social  
Services,  
    Respondent;  
Ronald L.,  
    Appellant.  
(And Two Other Proceedings.)

1                    Mo. No. 2017-386  
In the Matter of Kibwe Watson,  
    Appellant,  
    v.  
David Kaplan, &c., et al.,  
    Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2017-390  
Laval Wilson, &c.,  
    Appellant,  
    v.  
Poughkeepsie City School District,  
    Respondent.

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