

JUNE 8, 2004

CASES

1	No.	76		Order affirmed.
The People &c.,			Respondent,	Opinion by Judge G.B. Smith.
	v.			Judges Rosenblatt, Graffeo, Read and
Lenworth Aarons,			Appellant.	R.S. Smith concur.
				Judge Ciparick dissents and votes to
				reverse in an opinion in which Chief
				Judge Kaye concurs.
2	No.	88		Order affirmed.
The People &c.,			Respondent,	Opinion by Judge Ciparick.
	v.			Chief Judge Kaye and Judges Rosenblatt,
Michael Calabria,			Appellant.	Graffeo and Read concur, Judge Rosenblatt
				in a separate concurring opinion.
				Judge G.B. Smith dissents and votes to
				reverse in an opinion in which Judge R.S.
				Smith concurs.
2	No.	134	SSM 13	On review of submissions pursuant to
Harold Davis,			Appellant,	section 500.4 of the Rules, order
	v.			modified, without costs, by remitting
Branford Estates, Ltd., et al.,			Respondents.	to Supreme Court, Kings County, for
				further proceedings in accordance
				with the memorandum herein and, as so
				modified, affirmed.
				Chief Judge Kaye and Judges Smith,
				Ciparick, Rosenblatt, Graffeo, Read
				and Smith concur.

3 No. 133 SSM 17
In the Matter of John J.
Emmett Jr., et al.,
 Appellants,
 v.
Town of Edmeston,
 Respondent,
and Darryl Barton et al.,
 Respondents.

On review of submissions pursuant to section 500.4 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Kaye and Judges Smith, Ciparick, Rosenblatt, Graffeo, Read and Smith concur.

1 No. 84
Louis Dreyfus Energy Corp.,
et al.,
 Appellants,
 v.
MG Refining and Marketing, Inc.,
 Defendant,
MG Holdings North America, Inc.,
&c.,
 Respondent.

Order reversed, with costs, and the motion of defendant MG Capital for summary judgment dismissing the complaint against it denied. Opinion by Judge R.S. Smith. Chief Judge Kaye and Judges G.B. Smith, Ciparick, Rosenblatt, Graffeo and Read concur.

1 No. 80
64th Associates, L.L.C.,
 Appellant,
 v.
Manhattan Eye, Ear & Throat
Hospital, et al.,
 Respondents.

Order reversed, without costs, and case remitted to Supreme Court, New York County, for further proceedings in accordance with the opinion herein. Opinion by Judge Rosenblatt. Chief Judge Kaye and Judges Smith, Ciparick, Graffeo, Read and Smith concur.

1 No. 78
Sarah Wolinsky, et al.,
 Appellants,
David Leven,
 Plaintiff,
 v.
Kee Yip Realty Corp.,
 Respondent.

Order affirmed, with costs. Opinion by Judge Graffeo. Chief Judge Kaye and Judges Smith, Ciparick, Rosenblatt, Read and Smith concur.

Appellant,
v.
William Sherwood, &c., et al.,
Respondents.

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2-10 Mo. No. 394
Ronald Coleman,
Appellant,
v.
Nassau County,
Respondent.

Motion for leave to appeal denied.

2-13 Mo. No. 382
Coliseum Towers Associates,
Appellant,
v.
County of Nassau, et al.,
Respondents.

Motion for leave to appeal denied.

3-13 Mo. No. 385
In the Matter of Harvey Evans,
Respondent,
v.
Jewish Home and Hospital et al.,
Appellants.
Workers' Compensation Board,
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.

4-10 Mo. No. 390
Anne A. Garner, Formerly Known
as Anne A. Sans,
Appellant,
v.
Ira J. Sans,
Respondent.

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.

1-10 Mo. No. 384
In the Matter of Raglan George,
Jr., &c., et al.,
Appellants,
v.
Michael Bloomberg, &c.,
Respondent.

Motion for leave to appeal denied.

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Mo. No. 431
The People &c.,
Respondent,
v.
Dexter Hemmings,
Appellant.

Motion for reargument denied.

4-10 Mo. No. 369
Kim Hund et al., &c.,
Appellants,
v.
Sue Gramse, &c., et al.,
Respondents.

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

(And a third party action).

Mo. No. 298
Allen Hyman, et al.,
Appellants,
v.
Queens County Bancorp, Inc.
d/b/a Queens County Savings Bank,
Respondent.

Motion, insofar as it seeks to dismiss the
appeal from that portion of the Appellate
Division order that dismissed the appeal
to that court from Supreme Court's order
denying appellants' motion for "leave to
renew and reargue," granted, without
costs, upon the ground that such part of
the order does not finally determine the
action within the meaning of the Constitu-
tion; motion to dismiss the appeal
otherwise denied.

Motion to strike material from the record on appeal and references thereto in appellants' brief granted to the extent that the two additional photographs and the Edelson affidavit submitted on the motion for "leave to renew and reargue" and references thereto in appellants' brief are deemed stricken. Motion for an enlargement of the time to file a respondent's brief to 30 days after disposition of this motion granted.

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1-10 Mo. No. 310
Anne Indemini,
Appellant,
v.
Beth Israel Medical Center,
Respondent.

Motion for leave to appeal granted.
Judge R.S. Smith took no part.

1-10 Mo. No. 371
Jamaica Public Service Co., Ltd.,
Appellant,
v.
La Interamericana Compania de
Seguros Generales S.A., et al.,
Respondents,
AIU Insurance Co., et al.,
Defendants.

Motion, insofar as it seeks leave to appeal as against Seneca Insurance Company, dismissed as untimely (see, CPLR 5513[b]); motion, insofar as it seeks leave to appeal as against La Interamericana Compania de Seguros Generales S.A., denied.

2-14 Mo. No. 299
Lewis Kovit et al.,
Respondents,
v.
Estate of Katherine Hallums,

Motion for leave to appeal granted.

City of New York, Respondent,
et al., Appellant,
Defendant.

1 Mo. No. 358
Leonard J. Levenson, et al.,
Respondents,
v.
Jonathan Lippman, &c., et al.,
Appellants.

Motion for leave to appeal denied as
unnecessary.
Chief Judge Kaye took no part.

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2-10 Mo. No. 375
Saul Lipton,
Plaintiff,
v.
Norman Donnenfeld,
Defendant.
(Action No. 1)

Motion for leave to appeal denied.

I. Lawrence Brand,
Respondent,
v.
Saul Lipton,
Defendant,
Norman Donnenfeld,
Appellant.
(Action No. 2)

1-10 Mo. No. 240

Motion for leave to appeal denied with

Greg Lotysz, et al.,
Appellants,
v.
Kenneth O. Montgomery, M.D.,
et al.,
Respondents,
Evan T. Bell, M.D.,
Defendant.

one hundred dollars costs and necessary
reproduction disbursements.
Chief Judge Kaye took no part.

2-10 Mo. No. 368
In the Matter of Matra Building
Corp.,
Respondent,
v.
Alan Kucker, et al.,
Appellants.

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

4-10 Mo. No. 359
Shawn McDowell,
Appellant,
v.
State of New York,
Respondent.

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

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1-10 Mo. No. 426
Michael Melnitzky, &c.,
Appellant,
v.
The City of New York, et al.,
Respondents,
Alfredo Palacios, et al.,
Defendants.

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.

1-10 Mo. No. 278
The City of New York,
Respondent,
v.

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

Seabury Construction Corporation,
Defendant,
Jeffrey Chain Corporation,
Appellant.

2-10 Mo. No. 403
Zachary David Ruffing, &c.,
et al.,
Plaintiffs,
Alyssa Pfleging, et al.,
Appellants,

v.

Union Carbide Corporation, et
al.,
Defendants,
International Business Machines
Corporation,
Respondent.

Motion by the American Public Health
Association for leave to appear amicus
curiae on the motion for leave to
appeal herein denied.
Judge Rosenblatt took no part.

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2-10 Mo. No. 360
Zachary David Ruffing, &c.,
et al.,
Plaintiffs,
Alyssa Pfleging, et al.,
Appellants,

v.

Union Carbide Corporation, et
al.,

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

Defendants,
International Business Machines
Corporation,
Respondent.

Constitution.
Judge Rosenblatt took no part.

4-12 Mo. No. 465
The People &c. ex rel. Walter J.
Roache,
Appellant,
v.
S.A. Connell, &c.,
Respondent.

Motion for reargument of motion for
leave to appeal denied.

1-10 Mo. No. 323
RST Corporation et al.,
Appellants,
v.
Eva Meyerhoff,
Respondent,
Tobin M. Richter, &c.,
Defendant.

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

4-10 Mo. No. 355
In the Matter of Carlos S.,
Appellant.

Oneida County Attorney,
Respondent.

Motion for leave to appeal denied.

2-10 Mo. No. 376
In the Matter of Chestina Mae S.
(Anonymous).

Motion for leave to appeal denied.

St. Vincent's Services,
Respondent;

Brenda S. (Anonymous),
Appellant.
(Proceeding No. 1)

In the Matter of Jarzik Donnell
S. (Anonymous).

St. Vincent's Services,
Respondent;

Brenda S. (Anonymous),
Appellant.
(Proceeding No. 2)

Mo. No. 432
Omar Siagha,
Respondent,
v.
National Fire Insurance Company
of Pittsburgh, PA, et al.,
Appellants,
Salant-Jerome, Inc., &c.,
Defendant.

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

Judge Rosenblatt took no part.