

November 21, 2011

CASES

3 No. 190
Lee Bordeleau et al.,
 Respondents,
 v.
State of New York et al.,
 Appellants.

Order reversed, with costs, the first cause of action of plaintiffs' complaint dismissed, and certified question answered in the affirmative.
Opinion by Judge Jones.
Chief Judge Lippman and Judges Ciparick, Graffeo and Read concur.
Judge Pigott dissents and votes to affirm in an opinion in which Judge Smith concurs, Judge Smith in a separate dissenting opinion.

2 No. 187
The People &c.,
 Respondent,
 v.
Christian Bueno,
 Appellant.

Order affirmed.
Opinion by Judge Read.
Judges Ciparick, Graffeo, Pigott and Jones concur.
Chief Judge Lippman dissents and votes to reverse in an opinion in which Judge Smith concurs.

1 No. 205
Juliette DeJoie Cadichon, et al.,
 Appellants,
 v.
Thomas Facelle M.D., et al.,
 Respondents.

Order, insofar as appealed from, reversed, with costs, and plaintiffs' complaint reinstated.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Ciparick and Jones concur.
Judge Graffeo dissents and votes to affirm in an opinion in which Judges Read and Smith concur.

2 No. 198
The People &c.,
 Appellant-Respondent,
 v.
John Freeman,
 Respondent-Appellant.

Order affirmed.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Pigott and Jones concur.

2 No. 197
The People &c.,
 Appellant-Respondent,
 v.
Michael Hall,
 Respondent-Appellant.

Order affirmed.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Pigott and Jones concur.

1 No. 200
Raul Salazar,
 Respondent,
 v.
Novalex Contracting Corp., et al.,
 Appellants.
(And a Third-Party Action.)

Order reversed, with costs, plaintiff's Labor Law §§
240(1) and 241(6) claims dismissed, and certified
question answered in the negative.
Opinion by Judge Pigott.
Judges Graffeo, Read and Smith concur.
Chief Judge Lippman dissents and votes to affirm in
an opinion in which Judges Ciparick and Jones
concur.

1 No. 244 SSM 40
Superior Officers Council Health & Welfare
Fund, et al.,
 Appellants,
 v.
Empire HealthChoice Assurance, Inc., &c.,
 Respondent.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, with costs, in a
memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

1 No. 212
The People &c.,
 Respondent,
 v.
Daniel Thomas,
 Appellant.

Order affirmed, in a memorandum.
Judges Graffeo, Read, Smith and Pigott concur.
Judge Ciparick dissents and votes to reverse in an
opinion in which Chief Judge Lippman and Judge
Jones concur.

MOTIONS

1 Mo. No. 2011-1079

Darrell Bridgers, et al.,
Appellants,

v.

Christofer Wagner,
Respondent.

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

1 Mo. No. 2011-988

In the Matter of Bronx Committee for Toxic
Free Schools, et al.,
Respondents,

v.

New York City School Construction
Authority, et al.,
Appellants.

Motion for leave to appeal granted.

1 Mo. No. 2011-1052

In the Matter of Bronx Committee for Toxic
Free Schools, et al.,
Respondents,

v.

New York City School Construction
Authority, et al.,
Appellants.

Motion by the Real Estate Board of New York, Inc. for leave to file a brief amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed, and for leave to file a brief amicus curiae on the appeal herein granted, three copies of the brief to be served and an original and 19 copies filed within 30 days.

1 Mo. No. 2011-980

Concourse Rehabilitation & Nursing Center,
Inc.,
Appellant,

v.

Antonia C. Novello, &c., et al.,
Respondents.

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

3 Mo. No. 2011-929
J. Jeffrey Craven,
 Appellant,
 v.
John C. Rigas 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.

2 Mo. No. 2011-1070
In the Matter of Ajay Sumert D.
(Anonymous).

Motion for leave to appeal denied.

Administration for Children's Services,
 Respondent;
Vijay Anand D. (Anonymous),
 Appellant.

2 Mo. No. 2011-1028
In the Matter of Max F. (Anonymous), Jr.

Nassau County Department of Social
Services,
 Respondent;
Emma F.-G. (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.
Motion for a stay dismissed as academic.

1 Mo. No. 2011-1173
The People &c.,
 Respondent,
 v.
Corey Gamble,
 Appellant.

Motion for reargument denied.

4 Mo. No. 2011-968
Nicole Hernandez, &c.,
Appellant,
v.
Town of Hamburg, et al.,
Respondents.

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

2 Mo. No. 2011-967
In the Matter of Shimson Jalas, et al.,
Appellants,
v.
Israel Halperin, et al.,
Respondents.

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

1 Mo. No. 2011-983
Jo-Fra Properties, Inc.,
Appellant,
v.
Leland Bobbe, 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.

1 Mo. No. 2011-939
N.A. Lambrecht,
Appellant,
v.
Bank of America Corporation,
Respondent.

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

2 SSD 50
Nella Manko,
Appellant,
v.
Lenox Hill Anesthesiology, PLLC, et al.,
Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (CPLR 5601).

2 SSD 51
Nella Manko,
 Appellant,
 v,
Lenox Hill Hospital,
 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 Mo. No. 2011-961
In the Matter of Nella Manko,
 Appellant,
et al.,
 Petitioner,
 v.
New York State Division of Housing and
Community Renewal, Office of Rent
Administration,
 Respondent.

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

2 Mo. No. 2011-962
Nella Manko,
 Appellant,
 v,
Lenox Hill Hospital,
 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.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2011-984
In the Matter of the Estate of Aldona K.
Marriott, Deceased.

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

Gail Marriott,
 Respondent;
Robert W. Marriott,
 Appellant.

3 Mo. No. 2011-1025
The People &c.,
 Appellant,
 v.
Lamarr Reid,
 Respondent.

Motion to strike appellant's appendix &c. denied.

1 Mo. No. 2011-954
Lillian Roberts, &c., et al.,
 Appellants,
 v.
Health and Hospitals Corporation, et al.,
 Respondents.

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

Honorable Daniel Dromm, &c.,
et al.,
 Appellants,
 v.
Health and Hospitals Corporation,
 Respondent.

Sean Fitzpatrick, &c., et al.,
 Appellants,
 v.
Health and Hospitals Corporation, et al.,
 Respondents.

1 Mo. No. 2011-1023
Lillian Roberts, &c., et al.,
 Appellants,
 v.
Health and Hospitals Corporation, et al.,
 Respondents.

Honorable Daniel Dromm, &c.,
et al.,
 Appellants,
 v.
Health and Hospitals Corporation,
 Respondent.

Sean Fitzpatrick, &c., et al.,
 Appellants,
 v.
Health and Hospitals Corporation, et al.,
 Respondents.

Motion by New York City Municipal Labor
Committee for leave to file a brief amicus curiae on
the motions for leave to appeal herein granted and
the brief is accepted as filed.

2 Mo. No. 2011-951
Donna M. Romeo,
 Appellant,
 v.
Ryan Barrella, et al.,
 Respondents,
et al.,
 Defendant.

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. 2011-1044
Bart Shachnow,
 Respondent,
 v.
Jennifer Shafer,
 Appellant.

Motion, insofar as it seeks leave to appeal from the Appellate Division order of affirmance and dismissal, dismissed as untimely (see CPLR 5513[b]; Eaton v State of New York, 76 NY2d 824 [1990]); motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument, dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution.

1 Mo. No. 2011-535
Siegmond Strauss, Inc.,
 Respondent,
 v.
East 149th Realty Corp.,
 Defendant,
Windsor Brands, Ltd., et al.,
 Appellants.

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order that affirmed Supreme Court's judgment, granted; motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the Appellate Division order does not finally determine the action within the meaning of the Constitution.

3 Mo. No. 2011-982
In the Matter of Arleigh Spencer,
 Respondent.
International Shoppes, Inc.,
 Appellant.
Commissioner of Labor,
 Respondent.

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

3 Mo. No. 2011-969
The People &c. ex rel. Jeffrey Thigpen,
 Appellant,
 v.
Raymond Cunningham, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2011-973

Joseph E. Verderber, et al.,
Appellants,

v.

Commander Enterprises Centereach, LLC,
et al.,

Respondents.

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