

December 11, 2012

CASES

1 No. 242 SSM 46
Musa Callistro, an Infant, by His Mother and
Natural Guardian Jessica Rivera,
 Appellant,
 v.
Michael W. Bebbington, M.D., et al.,
 Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question not answered on the ground that it is unnecessary. Plaintiff failed to raise a triable issue of fact concerning whether defendants' alleged malpractice in failing to perform a caesarean section rather than a vaginal delivery was the cause of child's alleged cognitive, receptive, and expressive deficits and developmental disability. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

2 No. 224
Aleksy Guryev,
 Appellant,
 v.
Gregory Tomchinsky, et al.,
 Defendants,
200 Riverside Boulevard at Trump Place, et
al.,
 Respondents.

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

3 No. 222
W. James Mac Naughton et al.,
 Appellants,
 v.
Warren County et al.,
 Respondents.

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

1 No. 186
The People &c.,
 Appellant-Respondent,
 v.
Edgar Morales,
 Respondent-Appellant.

On the People's appeal, order affirmed.
On the defendant's appeal, order reversed and a new trial ordered.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Ciparick, Read, Smith and Pigott concur.

4 No. 218
The People &c.,
 Appellant,
 v.
Michael Mox,
 Respondent.

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

2 No. 207
In the Matter of the State of New York,
 Respondent,
 v.
John P. (Anonymous),
 Appellant.

Order affirmed, without costs, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

1 No. 158
In the Matter of Stray from the Heart, Inc.,
 Appellant,
 v.
Department of Health and Mental Hygiene of
the City of New York, et al.,
 Respondents.

Order affirmed, with costs, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

MOTIONS

3 Mo. No. 2012-895
Accurate Realty, LLC,
Respondent,
v.
Samuel C. Donadio, 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. Items of relief sought in the first cause of action remain pending.

4 Mo. No. 2012-1214
The People &c.,
Respondent,
v.
Trevis D. Baker,
Appellant.

Motion by New York Civil Liberties Union for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

2 Mo. No. 2012-820
The People &c.,
Appellant,
v.
Joe Campbell,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-993
Cedarwoods CRE CDO II, Ltd.,
et al.,
Appellants,
v.
Galante Holdings, Inc., et al.,
Respondents,
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.

3 Mo. No. 2012-813
In the Matter of Roberto Ciaprazi,
 Appellant,
 v.
Brian Fischer, &c., et al.,
 Respondents.

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

1 Mo. No. 2012-1078
Brenda Cornell,
 Respondent,
 v.
360 West 51st Street Realty, LLC, et al.,
 Defendants,
360 W. 51st Street Corp.,
 Appellant.

Motion to dismiss appeal denied.

3 Mo. No. 2012-1073
In the Matter of Michael A. Cunningham,
 Appellant,
 v.
New York State Department of Labor,
 Respondent.

Motion to dismiss appeal &c. denied.

1 Mo. No. 2012-1002
In the Matter of Lydia D.,
 Respondent,
 v.
Thomas B., IV,
 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. 2012-986
In the Matter of Gregory A. Goodwine, Sr.,
 Appellant,
 v.
William A. Lee,
 Respondent.

Motion for leave to appeal dismissed upon the
ground that the orders sought to be appealed from do
not finally determine the proceeding within the
meaning of the Constitution.

4 Mo. No. 2012-1137
In the Matter of Shawn G. Granger,
Respondent,
v.
Danielle D. Misercola,
Appellant.

Motion for a stay granted.

1 Mo. No. 2012-1154
The People &c.,
Respondent,
v.
Joseph Harris,
Appellant.

Motion for assignment of counsel granted and
Richard M. Greenberg, Esq., Office of the Appellate
Defender, 11 Park Place, Suite 1601, New York, NY
10007 assigned as counsel to the appellant on the
appeal herein.

1 Mo. No. 2012-1183
The People &c.,
Respondent,
v.
Martin Johnson,
Appellant.

Motion for assignment of counsel granted and
Richard M. Greenberg, Esq., Office of the Appellate
Defender, 11 Park Place, Suite 1601, New York, NY
10007 assigned as counsel to the appellant on the
appeal herein.

2 Mo. No. 2012-1076
J.P. Morgan Chase Bank, N.A.,
Appellant,
v.
Michael Joseph Cortes, et al.,
Respondents.

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

4 Mo. No. 2012-893
Sharlene McKenzie, as Executrix of the
Estate of Oscar McKenzie, Jr., Deceased,
 Appellant,
 v.
Onondaga County and Onondaga County Bar
Association Assigned Counsel Program, Inc.,
 Respondents.

Motion to vacate this Court's July 27, 2012 dismissal
order granted.

On the Court's own motion, appeal dismissed,
without costs, 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. 2012-1196
In the Matter of M.G.M. Insulation, Inc., et
al.,
 Appellants,
 v.
Colleen C. Gardner, &c.,
 Respondent.

Motion by New York State Council of the National
Electrical Contractors Association Chapters for leave
to appear amicus curiae on the appeal herein granted
only to the extent that the proposed brief is accepted
as filed. Two copies of the brief must be served and
19 copies filed within seven days.

3 Mo. No. 2012-1079
In the Matter of Morris Builders, LP, et al.,
 Respondents,
 v.
Empire Zone Designation Board
et al.,
 Appellants.

Motion to strike addendum to appellants' brief and
references thereto in appellants' brief granted and this
material is deemed stricken.

4 Mo. No. 2012-959
Lisa M. Oakes, Individually and as Executrix
of the Estate of Daniel C. Oakes, Deceased,
 Respondent,
 v.
Rajnikant Patel, M.D., et al.,
 Appellants.

Motion to strike denied.

2 Mo. No. 2012-977
James Parolisi,
 Appellant,
et al.,
 Plaintiffs,
 v.
Janet Slavin,
 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.

4 Mo. No. 2012-1226
The People &c.,
 Respondent,
 v.
Robert Pealer,
 Appellant.

Motion by District Attorneys Association of the State of 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.

2 Mo. No. 2012-1054
Property Hackers, LLC,
 Appellant,
 v.
Stewart Title Insurance Company,
 Respondent,
et al.,
 Defendant.

Motion for leave to appeal denied.

2 Mo. No. 2012-1080
Herzl Ragins, &c.,
 Appellant,
 v.
Hospitals Insurance Company, Inc., et al.,
 Respondents.

Motion for leave to appeal granted.

4 Mo. No. 2012-1121
The People &c.,
 Respondent,
 v.
Brendan J. Rhodes,
 Appellant.

Motion for assignment of counsel granted and John A. Cirando, Esq., c/o D.J. & J.A. Cirando, Esqs., 101 South Salina Street, Suite 1010, Syracuse, NY 13202 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2012-729
Marko S. &c.,
 Respondent,
 v.
Heather S. &c.,
 Appellant.

Motion for reargument denied.

3 Mo. No. 2012-1186
In the Matter of Shenendehowa Central
School District Board of Education,
 Appellant;
Civil Service Employees Association, Inc.,
Local 1000, AFSCME, AFL-CIO, Local 864,
et al.,
 Respondents.

Motion by New York State School Boards Association, Inc. et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

3 Mo. No. 2012-1187
In the Matter of Shenendehowa Central
School District Board of Education,
 Appellant;
Civil Service Employees Association, Inc.,
Local 1000, AFSCME, AFL-CIO, Local 864,
et al.,
 Respondents.

Motion by New York State United Teachers for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

1 Mo. No. 2012-1192
United States Fidelity & Guaranty Company,
et al.,
 Respondents,
 v.
American Re-Insurance Company, et al.,
 Appellants,
et al.,
 Defendants.

Motion by Complex Insurance Claims Litigation
Association et al. for leave to file a brief amici curiae
on the appeal herein denied.
Chief Judge Lippman took no part.

1 Mo. No. 2012-1201
United States Fidelity & Guaranty Company,
et al.,
 Respondents,
 v.
American Re-Insurance Company, et al.,
 Appellants,
et al.,
 Defendants.

Motion by James J. Wrynn, Esq. for leave to file a
brief amicus curiae on the appeal herein granted and
the proposed brief is accepted as filed. Two copies
of the brief must be served and 19 copies filed within
seven days.

1 Mo. No. 2012-1208
United States Fidelity & Guaranty Company,
et al.,
 Respondents,
 v.
American Re-Insurance Company, et al.,
 Appellants,
et al.,
 Defendants.

Motion by United Policyholders for leave to file a
brief amicus curiae on the appeal herein granted and
the proposed brief is accepted as filed. Two copies
of the brief must be served and 19 copies filed within
seven days.

2 Mo. No. 2012-1181
The People &c.,
 Appellant,
 v.
Sidney Wisdom,
 Respondent.

Motion for assignment of counsel granted and Lynn
W. L. Fahey, Esq., Appellate Advocates, 2 Rector
Street, 10th Floor, New York, NY 10006 assigned as
counsel to the respondent on the appeal herein.