

June 05, 2012

CASES

3 No. 107

Shawn Bukowski,
Appellant,

v.

Clarkson University et al.,
Respondents.

Order affirmed, with costs.

Opinion by Chief Judge Lippman.

Judges Ciparick, Graffeo, Read, Smith, Pigott and
Jones concur.

2 No. 134

In the Matter of Board of Managers of Copley
Court Condominium,
Appellant,

v.

Town of Ossining, &c., et al.,
Respondents,

Briarcliff Manor Union Free School District,
Respondent.

Order affirmed, with costs, in a memorandum.

Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

4 No. 149 SSM 22

Mark Dzielski et al.,
Respondents,

v.

Essex Insurance Company,
Appellant,

et al.,
Defendant.

On review of submissions pursuant to section 500.11
of the Rules, order reversed, with costs, plaintiffs'
motion for summary judgment denied, defendant's
motion for summary judgment granted, and judgment
granted to defendant declaring that it has no
obligation to indemnify its insured in the underlying
personal injury action, for the reasons stated in the
dissenting memorandum at the Appellate Division
(90 AD3d 1493, 1495-1497 [2011]).

Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

4 No. 90
The People &c.,
 Respondent,
 v.
Derrick Gause,
 Appellant.

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

1 No. 91
In the Matter of Lisa Harbatkin,
 Appellant,
 v.
New York City Department of Records and
Information Services, et al.,
 Respondents.

Order modified, without costs, in accordance with the
opinion herein and, as so modified, affirmed.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Pigott and Jones concur.

1 No. 97
The People &c.,
 Respondent,
 v.
Jorge Pagan,
 Appellant.

Order reversed and case remitted to the Appellate
Division, First Department, with directions to dismiss
the appeal taken to that court.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Ciparick, Read and
Jones concur.
Judge Smith dissents in an opinion in which Judge
Pigott concurs.

3 No. 102
The People &c.,
 Appellant,
 v.
Lamarr Reid,
 Respondent.

Order reversed and case remitted to the Appellate
Division, Third Department, for consideration of the
facts and issues raised but not determined on the
appeal to that court.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith and Jones concur.

1 No. 105
The People &c.,
 Respondent,
 v.
Ledarrius Wright,
 Appellant.

Order modified in accordance with the opinion herein
and, as so modified, affirmed.
Opinion by Judge Ciparick.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott and Jones concur.

MOTIONS

4 Mo. No. 2012-372
In the Matter of Roxanne Adrian,
 Appellant,
 v.
Board of Education of City School District of
City of Niagara Falls et al.,
 Respondents.

Motion for leave to appeal granted.

3 SSD 23
In the Matter of Association for Community
Living, Inc., et al.,
 Appellants,
 v.
New York State Office of Mental Health, et
al.,
 Respondents.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that no substantial
constitutional question is directly involved.

2 Mo. No. 2012-364
Michael Brathwaite,
 Appellant,
 v.
New York City Housing Authority, et al.,
 Respondents,
et al.,
 Defendants.

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

1 Mo. No. 2012-382
Leon Casper,
 Appellant,
 v.
Cushman & Wakefield,
 Respondent.

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

2 Mo. No. 2012-353
The People &c.,
 Respondent,
 v.
Andrew Crandall,
 Appellant.

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

3 SSD 22
Ayinde Fair,
 Appellant,
 v.
Joseph T. Smith, Individually and as
Superintendent of Shawangunk Correctional
Facility, et al.,
 Respondents.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that no substantial
constitutional question is directly involved.

2 Mo. No. 2012-336
The People &c.,
 Respondent,
 v.
Tyrone Gant,
 Appellant.

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

3 Mo. No. 2012-358
Peter Gonzalez et al.,
 Appellants,
 v.
L'Oreal USA, Inc.,
 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.

2 Mo. No. 2012-363
Gyrodyne Company of America, Inc.,
 Respondent,
 v.
State of New York,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2011-842
In the Matter of Lisa Harbatkin,
 Appellant,
 v.
New York City Department of Records and
Information Services, et al.,
 Respondents.

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 granted.

1 Mo. No. 2012-360
In the Matter of Jussi K. Kivisto,
 Appellant,
 v.
NYC Human Resources Administration, et
al.,
 Respondents.

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

4 SSD 21
In the Matter of Edward Koehl,
 Appellant,
 v.
John Lempke, Superintendent, Five Points
Correctional Facility,
 Respondent.

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

2 Mo. No. 2012-351
Deborah Rae Lamb, et al.,
 Appellants,
 v.
Governor for New York State,
et al.,
 Respondents.

Motion for reconsideration of this Court's February
21, 2012 dismissal order denied.
Motion for a stay dismissed as academic.

1 Mo. No. 2012-398
The People &c.,
 Respondent,
 v.
Michael Lewis,
 Appellant.

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

1 Mo. No. 2012-399
The People &c.,
 Respondent,
 v.
Paul Manning,
 Appellant.

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

2 Mo. No. 2012-396
In the Matter of James McGee,
 Appellant,
 v.
Michael Johnson, et al.,
 Respondents.

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

4 Mo. No. 2012-356
In the Matter of Michael Melendez,
 Appellant,
 v.
James L. Berbary, &c.,
et al.,
 Respondents.

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

1 Mo. No. 2012-352
Allan B. Mendelsohn, &c.,
 Appellant,
 v.
City of New York (19th Precinct),
 Respondent.

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

1 Mo. No. 2012-340
David Mirvish,
 Appellant,
 v.
Hanno D. Mott, &c., et al.,
 Respondents.

Motion for reargument denied with one hundred
dollars costs and necessary reproduction
disbursements.

4 Mo. No. 2012-342
Theresa Overhoff et al.,
Appellants,
v.
Sunta Perfetto,
Respondent.

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

1 Mo. No. 2012-389
Freda Gates Pozefsky,
Appellant,
v.
Richard T. Aulisi, &c., et al.,
Respondents,
John Does, &c., et al.,
Defendants.

Motion for reargument of motion for leave to appeal denied.

1 Mo. No. 2012-354
Kenneth E. Ramseur,
Appellant,
v.
Hudsonview Company, et al.,
Respondents.

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

1 Mo. No. 2012-355
Marko S. &c.,
Respondent,
v.
Heather S. &c.,
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.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2012-348
Ann M. Sawyer et al.,
Appellants,
v.
Victor Rutecki, et al.,
Respondents.

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

3 SSD 20
In the Matter of Anna Scheffey-Hohle,
 Appellant,
 v.
Travis C. Durfee,
 Respondent.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that the two-justice dissent
at the Appellate Division is not on a question of law
(CPLR 5601[a]).

2 Mo. No. 2012-380
Daniel Schick, et al.,
 Respondents,
 v.
200 Blydenburgh, LLC, et al.,
 Appellants.

Motions 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. 2012-216
In the Matter of Dashawn W.,
et al. &c.

Motion for leave to appeal granted.

Antoine N.,
 Appellant,
et al.,
 Respondent,
Administration for Children's Services,
 Respondent.