

March 29, 2012

CASES

2 No. 46

The People &c.,
Respondent,
v.
Khemwattie Bedessie,
Appellant.

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

2 No. 51

William Corsello, et al.,
Respondents-Appellants,
v.
Verizon New York, Inc., Formerly Known as
New York Telephone Company, et al.,
Appellants-Respondents.

Order of modification (77 AD3d 344) modified,
without costs, by reinstating plaintiffs' inverse
condemnation cause of action and dismissing
plaintiffs' General Business Law and unjust
enrichment causes of action and, as so modified,
affirmed, and certified question answered in the
negative.
Order affirming the denial of class action certification
(76 AD3d 941) affirmed, with costs, and certified
question answered in the affirmative.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Pigott and Jones concur.

4 No. 57

Hahn Automotive Warehouse, Inc.,
Respondent,
v.
American Zurich Insurance Company and
Zurich American Insurance Company,
Appellants.

Order, insofar as appealed from, affirmed, with costs,
and certified question answered in the affirmative.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Ciparick and Jones
concur.
Judge Read dissents in an opinion in which Judges
Smith and Pigott concur.

4 No. 43
The People &c.,
 Respondent,
 v.
Tecoy Ingram,
 Appellant.

 No. 118
Yaakov Licci, a minor, by his father and
natural guardian, Elihav Licci and by his
mother and natural guardian, Yehudit Licci, et
al.,
 Appellants,
 v.
Lebanese Canadian Bank, SAL; American
Express Bank Ltd.,
 Respondents.

2 No. 39
New York State Psychiatric Association, Inc.,
et al.,
 Respondents,
 v.
New York State Department of Health,
 Appellant.

Order reversed and case remitted to Supreme Court,
Onondaga County, for further proceedings in
accordance with the memorandum herein.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read and Jones concur.
Judge Pigott dissents and votes to affirm in an
opinion in which Judge Smith concurs.

Certification of questions by the United States Court
of Appeals for the Second Circuit, pursuant to section
500.27 of this Court's Rules of Practice, accepted and
the issues presented are to be considered after
briefing and argument.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

Judgment appealed from and order of the Appellate
Division brought up for review reversed, with costs,
and judgment granted to defendant declaring in
accordance with the opinion herein.
Opinion by Judge Ciparick.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott and Jones concur.

1 No. 44
The People &c.,
 Respondent-Appellant,
 v.
Christopher Perino,
 Appellant-Respondent.

On defendant's appeal, order, insofar as appealed from, affirmed. People's appeal dismissed upon the ground that the modification by the Appellate Division was not "on the law alone or upon the law and such facts which, but for the determination of law, would not have led to . . . modification" (CPL 450.90[2][a]).

Opinion by Judge Pigott.

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

MOTIONS

3 Mo. No. 2012-117
In the Matter of Alexis AA.,
et al., &c.

Clinton County Department of Social
Services,
 Respondent;
John AA.,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2012-123
In the Matter of Ryan Adams,
 Respondent,
 v.
Alecia Bracci,
 Appellant.
(And Eight Other Related Proceedings.)

Motion for leave to appeal denied.

1 Mo. No. 2011-1371
Eleanor Capogrosso,
 Appellant,
 v.
Tina Kansas,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-122
In the Matter of Malika R. Christiani,
 Respondent,
 v.
Charles C. Rhody,
 Appellant.
(And Another Related Proceeding.)

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

2 Mo. No. 2012-114
Joseph Clarke, et al.,
Appellants,
v.
Thomas Condon, Jr., et al.,
Respondents.

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

3 Mo. No. 2012-124
In the Matter of Syles DD., &c.

Motion for leave to appeal denied.

Schenectady County Department of Social
Services,
Respondent;
Felicia DD.,
Appellant.

1 Mo. No. 2012-115
Melissa Feldman, &c.,
Respondent,
v.
Susan M. Levine, M.D.,
Appellant.

Motion for leave to appeal granted.

1 Mo. No. 2011-1365
Kenzie Godfrey,
Appellant,
v.
G.E. Capital Auto Lease, Inc.,
Respondent,
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 (see Cuadrado v New York City Tr. Auth., lv dismissed 14 NY3d 748 [2010]).
Judge Read took no part.

1 Mo. No. 2012-128
Great American Insurance Companies, et al.,
 Plaintiffs,
 v.
Bearcat Financial Services, Inc., et al.,
 Defendants.

Patrick Hayes,
 Third-Party Appellant,
 v.
Dresdner, Kleinwort, Wasserstein Services,
LLC,
 Third-Party Respondent.
Peter A. Hurwitz, Esq.,
 Non-Party Appellant.

 Mo. No. 2012-158
Germelia Joseph,
 Respondent,
 v.
George Athanasopoulos, Gus
Athanasopoulos, Peter Athanasopoulos,
 Defendants,
HDMJ Restaurant, Inc.,
 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 by counsel for HDMJ Restaurant, Inc. for permission to withdraw from representation of that party in this Court denied; on the Court's own motion, reconsideration given to its September 15, 2011 order accepting certification of a question by the United States Court of Appeals for the Second Circuit, and, upon reconsideration, certification of question by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, declined, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

3 Mo. No. 2012-107
In the Matter of Nigel Joseph,
 Appellant,
 v.
Darwin LaClair, &c.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-96
In the Matter of Anastacia L.,
et al., &c.

Vito L.,
 Appellant,
Jennifer R.,
 Respondent,
Administration for Children's Services,
 Respondent.

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

3 Mo. No. 2012-93
In the Matter of Melvin C. Lewis,
 Appellant,
 v.
William R. Lape, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 SSD 8
Nella Manko,
 Appellant,
 v,
Lenox Hill Hospital,
 Respondent.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that it does not lie (see
CPLR 5511, 5601).

2 SSD 7
Nella Manko,
 Appellant,
 v.
Aetna Health, Inc., 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.

1 Mo. No. 2012-18
Marshall Investments Corporation, et al.,
 Appellants,
 v.
Harrah's Operating Company, Inc., &c., et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied. The parties' stipulation, being without prejudice, did not finally determine the second cause of action for purposes of this Court's jurisdiction.

2 Mo. No. 2012-50
Michael Martin,
 Appellant,
 v.
Thomas Huang, et al.,
 Defendants,
Angelo Costa, et al.,
 Respondents.

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

3 Mo. No. 2012-113
In the Matter of Joseph MM., &c.

Schenectady County Department of Social
Services,
 Respondent;
Clifford MM.,
 Appellant.

Motions for leave to appeal denied.

In the Matter of Joseph MM., &c.

Schenectady County Department of Social
Services,
 Respondent;
Nicole MM.,
 Appellant.

2 Mo. No. 2012-6
In the Matter of Edward Murphy, et al.,
 Respondents-Appellants,
 v.
United States Dredging Corporation,
 Appellant-Respondent,
et al.,
 Respondent.

Motion by appellant-respondent for leave to appeal denied.
Motion by respondents-appellants for leave to appeal dismissed upon the ground that simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals (see Parker v Rogerson, 35 NY2d 751, 753 [1974]).

4 Mo. No. 2012-127
Northern Trust, NA, &c.,
 Respondent,
 v.
Patricia A. Delley,
 Appellant.

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

3 Mo. No. 2012-78
In the Matter of Maria Palmero,
 Claimant,
 v.
Primo Coat Corporation et al.,
 Respondents,
Special Fund for Reopened Cases,
 Appellant.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-125
In the Matter of Jacqueline Perez,
 Respondent,
 v.
John B. Rhea, &c.,
 Appellant.

Motion for leave to appeal granted.

2 Mo. No. 2012-132
Lise L. Robertson, &c., et al.,
 Appellants,
 v.
Somers Central School District,
 Respondent,
et al.,
 Defendant.

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

1 Mo. No. 2012-222
Rose Group Park Avenue LLC,
et al.,
 Appellants,
 v.
The New York State Liquor Authority,
 Respondent.

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

Motion for a stay dismissed as academic.

The Preservation Coalition,
et al.,
 Intervenors-Respondents.

1 Mo. No. 2012-121
Rosario Sebastiano, et al.,
 Appellants,
 v.
New York City Transit Authority,
 Respondent.

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

2 Mo. No. 2012-61
In the Matter of Susan D. Settenbrino, P.C.,
 Appellant,
 v.
Florentina Barroga-Hayes,
 Respondent.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed Supreme Court's order denying petitioner's motion to correct the judgment, dismissed upon the ground that such portion of the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

3 Mo. No. 2012-137
Daniel Singer,
 Appellant,
 v.
Casey Krul,
 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 (see Cuadrado v New York City Tr. Auth., lv dismissed 14 NY3d 748 [2010]).

2 Mo. No. 2012-95
Nabila Soussi,
 Appellant,
 v.
Christopher Gobin, et al.,
 Respondents.

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

3 Mo. No. 2012-116
In the Matter of Karen A. Stone,
 Appellant,
 v.
New York State Comptroller
et al.,
 Respondents.

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

2 Mo. No. 2012-99
In the Matter of Gina Trupiano,
 Appellant,
 v.
Board of Education of East Meadow Union
Free School District,
 Respondent.

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