

May 01, 2012

CASES

1 No. 142 SSM 12
Sarbjee Kaur, &c.,
Respondent,
v.
American Transit Insurance Company, et al.,
Defendants,
Baker, McEvoy, Morrissey & Moskovits, P.C.,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, order of Supreme Court, New York County, reinstated and certified question answered in the negative. Triable issues of fact exist concerning defendant-appellant's successor liability (see Schumacher v Richards Shear Co., 59 NY2d 239, 245 [1983]). Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

2 No. 141 SSM 11
In the Matter of O. (Anonymous),
Respondent,
v.
M. (Anonymous),
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, without costs, and matter remitted to Family Court, Dutchess County, for further proceedings in accordance with the memorandum herein. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1 No. 72
In the Matter of Eyal Ovadia,
et al.,
Appellants,
v.
Office of the Industrial Board of Appeals, et al.,
Respondents.

Judgment reversed, with costs, and matter remitted to the Appellate Division, First Department, with directions to remand to the Industrial Board of Appeals for further proceedings in accordance with the opinion herein. Opinion by Judge Graffeo. Chief Judge Lippman and Judges Ciparick, Read, Smith, Pigott and Jones concur.

2 No. 78
The People &c.,
 Respondent,
 v.
Luis Ramos,
 Appellant.

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

3 No. 76
In the Matter of Wayne Schmidt,
 Respondent,
 v.
Falls Dodge, Inc. et al.,
 Appellants.
Workers' Compensation Board,
 Respondent.

Order reversed, with costs, and case remitted to the
Appellate Division, Third Department, with
directions to remand to the Workers' Compensation
Board for further proceedings in accordance with the
opinion herein.
Opinion by Judge Smith.
Judges Graffeo, Read, Pigott and Jones concur.
Judge Ciparick dissents and votes to affirm in an
opinion in which Chief Judge Lippman concurs.

4 No. 143 SSM 14
The People &c.,
 Respondent,
 v.
Morris B. Yuson,
 Appellant.

On review of submissions pursuant to section 500.11
of the Rules, order modified by vacating defendant's
sentence and remitting the case to Monroe County
Court for resentencing in accordance with the
memorandum herein and, as so modified, affirmed.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

3 No. 55
In the Matter of Rocio Zamora,
 Respondent,
 v.
New York Neurologic Associates et al.,
 Appellants,
Workers' Compensation Board,
 Appellant.

Order reversed, with costs, and the decision of the
Workers' Compensation Board reinstated.
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.

MOTIONS

2 Mo. No. 2012-213
In the Matter of Ellen Adler, et al.,
 Respondents,
 v.
Sharon Hooper,
 Respondent,
New York State Division of Human Rights,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-221
In the Matter of Anonymous,
et al.,
 Appellants,
 v.
Departmental Disciplinary Committee for the
First Judicial Department,
 Respondent.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument or, in the alternative, leave to appeal to this Court, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1 Mo. No. 2012-264
In the Matter of Corey Dwayne B., &c.

Dwayne B.,
 Appellant,
Raquel R.,
 Respondent,
Cardinal McClosky Services,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-207
Victor Y. Batshever,
 Appellant,
 v.
Daniel Black, et al.,
 Respondents.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain it (see CPLR 5602).
Motion for poor person relief dismissed as academic.

2 Mo. No. 2012-202
In the Matter of Howard E. Bennett, &c.,
deceased.

David White,
Appellant;
Robert Middleton, et al.,
Respondents.

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

1 Mo. No. 2012-302
Lisa Bruno,
Appellant,
v.
Stephen Bruno, et al.,
Respondents.

Motion for reargument of motion for leave to appeal
denied.
Cross motion for the imposition of sanctions denied.

2 Mo. No. 2012-220
In the Matter of Michael Buxenbaum, Jr.,
Respondent,
v.
Rachel Fulmer,
Appellant.

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

1 Mo. No. 2012-238
The People &c.,
Respondent,
v.
Osiris Cabrera,
Appellant.

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

2 SSD 10
Frank Cervera,
Appellant,
v.
Rossanna Bressler,
Respondent.

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

3 Mo. No. 2012-211
In the Matter of Ronald I. Cohen,
 Respondent.
Town of Brookhaven,
 Appellant.
Commissioner of Labor,
 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.

3 Mo. No. 2012-231
Jungsil Cusimano,
 Appellant,
 v.
United Health Services Hospitals, Inc., et al.,
 Respondents,
et al.,
 Respondents.

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

2 Mo. No. 2012-69
In the Matter of Miladin Dobric,
 Appellant,
 v.
Park Len North Owner, Inc.,
et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2012-177
In the Matter of Chase F. &c.
et al.

Motion for leave to appeal denied.

Tompkins County Department of Social
Services,
 Respondent;
Michael G.,
 Appellant.
(And Another Proceeding.)

2 Mo. No. 2012-224

Inna Fleyshman,
Appellant,

v.

Suckle & Schlesinger, PLLC,
et al.,

Respondents.

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

2 Mo. No. 2012-326

In the Matter of Peter J. Galasso, &c., an
attorney and counselor-at-law.

Grievance Committee for the Ninth Judicial
District,

Respondent;

Peter J. Galasso,
Appellant.

Motion for leave to appeal granted.
Motion for a stay granted.

2 Mo. No. 2012-384

In the Matter of Peter J. Galasso, &c., an
attorney and counselor-at-law.

Grievance Committee for the Ninth Judicial
District,

Respondent;

Peter J. Galasso,
Appellant.

Motion by the Nassau County Bar Association 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 19 copies filed within 30 days.

2 Mo. No. 2012-387

In the Matter of Peter J. Galasso, &c., an
attorney and counselor-at-law.

Grievance Committee for the Ninth Judicial
District,

Respondent;

Peter J. Galasso,
Appellant.

Motion by the Matrimonial Bar Association of Suffolk County for leave to file a brief amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

2 Mo. No. 2012-388
In the Matter of Peter J. Galasso, &c., an
attorney and counselor-at-law.

Grievance Committee for the Ninth Judicial
District,
 Respondent;
Peter J. Galasso,
 Appellant.

Motion by the Bronx County Bar Association for
leave to file a brief amicus curiae on the motion for
leave to appeal herein granted and the brief is
accepted as filed.

2 Mo. No. 2012-408
In the Matter of Peter J. Galasso, &c., an
attorney and counselor-at-law.

Grievance Committee for the Ninth Judicial
District,
 Respondent;
Peter J. Galasso,
 Appellant.

Motion by New York State Trial Lawyers
Association for leave to file a brief amicus curiae on
the motion for leave to appeal herein granted and the
brief is accepted as filed.

1 Mo. No. 2012-304
The People &c.,
 Respondent,
 v.
Corey Gamble,
 Appellant.

Motion for reargument denied.

4 Mo. No. 2012-218
In the Matter of Atreyu G. et al.

Onondaga County Department of Social
Services,
 Respondent;
Jana M.,
 Appellant,
et al.,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-235
In the Matter of Gerald G., Jr. et al.

Motion for leave to appeal denied.

Erie County Department of Social Services,
Respondent,
Orena G.,
Appellant.

4 Mo. No. 2012-233
The People &c.,
Respondent,
v.
David L. Gardiner,
Appellant.

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

2 Mo. No. 2012-219
The People &c.,
Respondent,
v.
Tracy J. Henry,
Appellant.

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

2 Mo. No. 2012-171
In the Matter of Briseida Felipe Hernandez,
&c.,
Appellant,
v.
County of Suffolk, et al.,
Respondents.

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

1 Mo. No. 2012-318
Herzfeld & Rubin, P.C.,
Respondent,
v.
Kshel Realty Corp.,
Appellant.

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

4 Mo. No. 2012-232
In the Matter of John Hogan,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-200
The People &c. ex rel. Erwin Jackson,
 Appellant,
 v.
Commissioner of New York State Department
of Correctional and Community Supervision,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-230
In the Matter of Marquise JJ., &c.

Cortland County Department of Social
Services,
 Respondent;
Jamie KK.,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2012-214
In the Matter of Harry Josifidis,
 Appellant,
 v.
Richard F. Daines, &c., et al.,
 Respondents.

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

2 Mo. No. 2012-252
The People &c.,
 Respondent,
 v.
Kenneth Lashway,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2012-276
In the Matter of Gregory Mingo,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-191
In the Matter of John Murphy,
 Respondent,
 v.
Galen D. Kirkland, &c. et al.,
 Respondents,
State Division of Human Rights,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2012-196
Erica L. Niemann et al.,
 Appellants,
 v .
St. Joseph's Hospital Health Center, et al.,
 Respondents,
et al.,
 Defendants.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2012-240
In the Matter of Derek P.,
 Appellant,
 v.
Doris Q.,
 Respondent.
(And Another Related Proceeding.)

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order that dismissed appellant's appeal from Family Court's dismissal of his petition to enforce a prior Family Court order, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

3 Mo. No. 2012-227

In the Matter of Frank Ramsay,
Appellant,

v.

New York State Department of Education and
Licensing Division,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-254

In the Matter of Recovery of Judgment, LLC,
&c.,
Respondent,

v.

Joseph Warren,
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. 2012-262

Rite Capital Group, LLC, et al.,
Respondents,

v.

LMAG, LLC, et al.,
Defendants,
Zeg Enterprises, 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.

2 Mo. No. 2012-204

Laura Rohr,
Appellant,

v.

City of New York, et al.,
Defendants,
Sun Yun Na,
Respondent.

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

3 Mo. No. 2012-208
In the Matter of Jose Rosa,
 Appellant,
 v.
Brian Fischer, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2012-234
Satellite Asset Management, L.P.,
 Respondent,
 v.
Fifth Avenue Building Company, LLC,
 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.

2 Mo. No. 2012-217
The People &c.,
 Respondent,
 v.
Michael Suber,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-255
Joseph Sweeney,
 Appellant,
 v.
New York City Department of Health and
Mental Hygiene,
 Respondent.

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

3 Mo. No. 2012-249
In the Matter of Injah Tafari,
 Appellant,
 v.
Andrea W. Evans, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2012-244
In the Matter of Wesley Vaughn,
 Appellant,
 v.
Kevin Kuktowski, &c.,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-292
The People &c.,
 Respondent,
 v.
Howard B. Washington,
 Appellant.

Motion for leave to appeal denied.