

February 14, 2013

CASES

1 No. 82 SSM 42

The People &c.,
Respondent,

v.

Carlos Abreu,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith and Pigott concur. Judge Rivera took no part.

1 No. 18

Maria Auqui, &c., et al.,
Respondents,

v.

Seven Thirty One Limited Partnership, et al.,
Appellants.

Order reversed, with costs, defendants' motion to preclude plaintiffs from litigating the issue of plaintiff Jose Verdugo's accident-related disability beyond January 24, 2006 granted, and certified question answered in the negative, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read and Smith concur. Judge Pigott dissents and votes to affirm in an opinion. Judge Rivera took no part.

1 No. 22

Fundamental Long Term Care Holdings,
LLC, et al.,
Appellants,

v.

Cammeby's Funding LLC, et al.,
Respondents.

Order affirmed, with costs. Opinion by Judge Read. Chief Judge Lippman and Judges Graffeo, Smith and Pigott concur. Judge Rivera took no part.

1 No. 26
In the Matter of Jacqueline Perez,
 Respondent,
 v.
John B. Rhea, &c.,
 Appellant.

Order reversed, without costs, and judgment of
Supreme Court, New York County, reinstated.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Graffeo, Read and
Smith concur.
Judge Rivera took no part.

1 No. 23
Rubin Schron, et al.,
 Plaintiffs,
 v.
Troutman Saunders LLP, et al.,
 Defendants.

Order, insofar as appealed from, affirmed, with costs.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Smith and
Pigott concur.
Judge Rivera took no part.

Mich II Holdings LLC, et al.,
 Plaintiffs,
SVCare Holdings, LLC,
 Appellant,
 v.
Rubin Schron, et al.,
 Defendants,
Cammeby's Equity Holdings LLC,
 Respondent.

2 No. 12
Sunrise Check Cashing and Payroll Services,
Inc., et al.,
 Respondents,
 v.
Town of Hempstead,
 Appellant.

Order affirmed, with costs.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Graffeo, Read and
Pigott concur.
Judge Rivera took no part.

2 No. 3
In the Matter of Brian Ward,
 Respondent,
 v.
City of Long Beach,
 Appellant.

Order affirmed, with costs, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read,
Smith and Pigott concur.
Judge Rivera took no part.

MOTIONS

1 Mo. No. 2013-42
In the Matter of Isiah Steven A., et al., &c.

Anne Elizabeth Pierre L.,
Appellant,
New Alternatives for Children, Inc.,
Respondent.

Motion for leave to appeal denied.
Judge Rivera took no part.

3 Mo. No. 2013-45
In the Matter of Robert AA.,
Appellant,
v.
Colleen BB.,
Respondent.
(And Seven Other Proceedings.)

Motion for leave to appeal denied.
Judge Rivera took no part.

2 Mo. No. 2013-125
The People &c.,
Respondent,
v.
Juan L. Almestica,
Appellant.

Motion for an extension of the time within which to
apply for permission to appeal pursuant to CPL
460.20 granted and motion papers treated as a timely
CPL 460.20 application.

1 Mo. No. 2013-5
American Building Supply Corp.,
Appellant,
v.
Petrocelli Group, Inc.,
Respondent,
Pollak Associates,
Defendant.

Motion for reargument denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

1 Mo. No. 2013-6
In the Matter of American Transit Insurance
Company,
 Respondent,
 v.
Mohammad S. Hossain,
 Respondent,
State Farm Mutual Automobile Ins. Co.,
 Appellant,
Stokely Braithwaite,
 Respondent.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

4 SSD 8
In the Matter of Jessie James Barnes,
 Appellant,
 v.
Julie Finocchio, Assistant District Attorney,
Monroe County Sheriff Property Clerk and
Brighton Police Department Property Clerk,
 Respondents.

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

3 Mo. No. 2013-58
The People &c. ex rel. Javon Boatwright,
 Appellant,
 v.
Thomas LaValley, &c.,
 Respondent.

Motion for leave to appeal denied.
Judge Rivera took no part.

1 Mo. No. 2013-140
The People of the State of New York by
Andrew M. Cuomo, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Motion by Professor James J. Park 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 nine copies filed
within seven days.
Chief Judge Lippman took no part.

1 Mo. No. 2013-151
The People of the State of New York by
Andrew M. Cuomo, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Motion by Professor Kate Stith 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 nine copies filed within seven days.
Chief Judge Lippman took no part.

1 Mo. No. 2013-152
The People of the State of New York by
Andrew M. Cuomo, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Motion by AARP 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 nine copies filed within seven days.
Chief Judge Lippman took no part.

1 Mo. No. 2013-158
The People of the State of New York by
Andrew M. Cuomo, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Motion by North American Securities Administrators Association, Inc. 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 nine copies filed within seven days.
Chief Judge Lippman took no part.

1 Mo. No. 2013-159
The People of the State of New York by
Andrew M. Cuomo, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Motion by Chamber of Commerce of the United States 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 nine copies filed within seven days.
Chief Judge Lippman took no part.

1 Mo. No. 2013-160
The People of the State of New York by
Andrew M. Cuomo, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Motion by Honorable Paul S. Atkins 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 nine copies filed within seven days.
Chief Judge Lippman took no part.

1 Mo. No. 2013-168
The People of the State of New York by
Andrew M. Cuomo, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Motion by States of Connecticut and Vermont Offices of the Attorneys General 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 nine copies filed within seven days.
Chief Judge Lippman took no part.

2 Mo. No. 2012-1162
The People &c.,
 Appellant,
 v.
Derrick Deacon,
 Respondent.

Motion to dismiss appeal granted and the 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]).
Judge Rivera took no part.

 Mo. No. 2013-123
The People &c.,
 Respondent,
 v.
Angel DeJesus,
 Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

2 Mo. No. 2012-1269
The People &c.,
Respondent,
v.
Jesus Delvalle,
Appellant.

Motion for leave to appeal denied.
Judge Rivera took no part.

2 Mo. No. 2012-1281
Wanda Deregowska-Michalak,
Appellant,
v.
Piot Zdzislaw Michalak,
Respondent.

Motion for leave to appeal dismissed upon the
ground that the Court of Appeals does not have
jurisdiction to entertain it (see NY Const, art VI, § 3;
CPLR 5602).
Judge Rivera took no part.

2 Mo. No. 2013-36
Kristin Kahkonen Dupree,
Respondent-Appellant,
v.
James E. Giugliano,
Appellant-Respondent.

Motion for reargument denied.
Judge Rivera took no part.

1 Mo. No. 2013-14
Franca Ferrari,
Appellant,
v.
Iona College, et al.,
Respondents.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

2 Mo. No. 2013-17
The People &c.,
Respondent,
v.
Matthew Finizio,
Appellant,

Motion for leave to appeal denied.
Judge Rivera took no part.

1 Mo. No. 2012-1286
In the Matter of Christina G.,
et al., &c.

Vladimir G.,
Appellant,
Administration for Children's Services,
Respondent.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Judge Rivera took no part.

2 Mo. No. 2013-11
Diana G. (Anonymous), &c.,
et al.,
Appellants,
v.
Our Lady Queen of Martyrs School, et al.,
Respondents.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

4 Mo. No. 2012-1161
In the Matter of Kevin Gee,
Appellant,
v.
Board of Education of Rochester City School
District, et al.,
Respondents.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

1 Mo. No. 2013-33
Elizabeth Gonzalez,
Appellant,
v.
The City of New York,
Respondent.

Motion for leave to appeal denied.
Judge Rivera took no part.

Mo. No. 2012-1099
In the Matter of Tyrone L. Jackson,
Appellant,
v.
The Appellate Division, First Department et
al.,
Respondents.

Motion for reargument of motion for leave to appeal
denied.
Judge Rivera took no part.

4 Mo. No. 2013-15
In the Matter of Jakob B.-K.
et al.

Motion for leave to appeal denied.
Judge Rivera took no part.

Cayuga County Department of Health and
Human Services,
Respondent;
Sherry M.B.,
Appellant.

4 Mo. No. 2013-83
In the Matter of Jakob B.-K.
et al.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Judge Rivera took no part.

Cayuga County Department of Health and
Human Services,
Respondent;
Stephen K.,
Appellant.

4 Mo. No. 2013-163
In the Matter of Eric J. Koch, D.O.,
Respondent,
v.
James G. Sheehan, &c.,
Appellant.

Motion by Medical Society 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. Two copies of the brief
must be served and nine copies filed within seven
days.

3 Mo. No. 2012-1285
The People &c.,
 Respondent,
 v.
Stephen H. Kotzen,
 Appellant.

Motion for leave to appeal denied.
Judge Rivera took no part.

3 Mo. No. 2013-22
In the Matter of Brian Lutz,
 Respondent,
 v.
Steven Krokoff, &c., et al.,
 Appellants.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

1 Mo. No. 2013-27
Ervido B. Mejia,
 Appellant,
 v.
Roosevelt Island Medical Associates, &c., 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.
Judge Rivera took no part.

1 Mo. No. 2013-122
The People &c.,
 Respondent,
 v.
Elvin Munoz,
 Appellant.

Motion for an extension of the time within which to
apply for permission to appeal pursuant to CPL
460.20 granted and motion papers treated as a timely
CPL 460.20 application.

2 Mo. No. 2012-1293
Stephanie O'Neil,
 Appellant,
 v.
Roman Catholic Diocese of Brooklyn, et al.,
 Respondents,
et al.,
 Defendant.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

2 Mo. No. 2013-34
Kelli O'Neill,
 Appellant,
 v.
Town of Dover,
 Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Rivera took no part.

1 Mo. No. 2013-61
In the Matter of Will Reese, Jr.,
 Appellant,
 v.
John B. Rhea, &c., et al.,
 Respondents.

Motion for leave to appeal denied.
Judge Rivera took no part.

4 Mo. No. 2013-156
Timothy A. Roulan,
 Appellant,
 v.
County of Onondaga and The Assigned
Counsel Program, Inc.
 Respondents.

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. Three copies of the brief must be served and an original and nine copies filed within seven days.
Chief Judge Lippman took no part.

3 Mo. No. 2013-59
In the Matter of Dominick Sciamè,
 Appellant,
 v.
Airborne Express, Inc., et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.
Judge Rivera took no part.

3 Mo. No. 2013-9
In the Matter of United Parcel Service, Inc.,
 Respondent,
 v.
Tax Appeals Tribunal of the State of New
York,
 Respondent,
Commissioner of Taxation and Finance of the
State of New York,
 Appellant.

Motion for leave to appeal denied.
Judge Rivera took no part.

4 Mo. No. 2012-1115
Deborah Voss, et al.,
 Appellants,
 v.
The Netherlands Insurance Company, et al.,
 Defendants,
CH Insurance Brokerage Services, Co., Inc.,
 Respondent.

Motion for leave to appeal granted.
Judge Rivera took no part.