

September 12, 2013

**CASES**

No. 244  
Matthew Isabella et al.,  
Plaintiffs,  
Doris A. Hallock et al.,  
Third-Party Respondents,  
v.  
Michael W. Koubek,  
Third-Party Appellant.

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, accepted and the issues presented are to be considered after briefing and argument.  
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 246 SSM 19  
Hideki Sato, et al.,  
Appellants,  
v.  
Ippudo NY, et al.,  
Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. Plaintiff failed to raise a triable issue of fact concerning whether defendants' alleged negligence in failing to provide adequate warning of the presence of the staircase or adequate lighting in the staircase and surrounding area caused his fall.  
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

## MOTIONS

2                    Mo. No. 2013-783  
34-35th Corp.,  
Appellant,  
v.  
1-10 Industry Associates, LLC,  
Respondent.

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

2                    Mo. No. 2013-936  
The People &c.,  
Respondent,  
v.  
Terrell Allen,  
Appellant.

Motion for assignment of counsel granted and Steven Banks, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

2                    SSD 49  
Bradford Applegate,  
Appellant,  
v.  
State of New York,  
Respondent.

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.

3                    Mo. No. 2013-714  
In the Matter of Mark D. Beckwith,  
Appellant,  
v.  
John D. Sabini et al., Constituting the New  
York State Racing and Wagering Board,  
Respondents.

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

3                    Mo. No. 2013-314  
In the Matter of Sharon K. Bland,  
                    Appellant,  
                    v.  
Gellman, Brydges & Schroff,  
et al.,  
                    Respondents,  
Workers' Compensation Board,  
                    Respondent.  
(And Another Proceeding.)

Motion for reargument of motion for leave to appeal  
denied.  
Judge Abdus-Salaam took no part.

2                    SSD 47  
Michael Buxbaum,  
                    Appellant,  
                    v.  
Nadine Castro,  
                    Respondent.

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

3                    SSD 46  
In the Matter of the Foreclosure of Tax Liens  
by County of Sullivan.  
  
County of Sullivan,  
                    Respondent,  
                    v.  
Witold Matejkowski,  
                    Appellant.

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.

3                    Mo. No. 2013-806  
In the Matter of Jamarr Fowler,  
                    Appellant,  
                    v.  
Brian Fischer, &c.,  
                    Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2013-763  
In the Matter of Samuel A. Garrasi and Mary  
H. Garrasi Family Revocable Trust.

G. Robert Garrasi, &c.,  
Appellant;  
et al.,  
Respondent;  
Sallie Hume Garrasi,  
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.

2                    Mo. No. 2013-935  
The People &c.,  
Appellant,  
v.  
Mark Garrett,  
Respondent.

Motion for assignment of counsel granted and Steven  
A. Feldman, Esq., 626 Reckson Plaza, West Tower,  
6th Floor, Uniondale, NY 11556 assigned as counsel  
to the respondent on the appeal herein.

1                    Mo. No. 2013-894  
The People &c.,  
Respondent,  
v.  
Dwight Giles,  
Appellant.

Motion for assignment of counsel granted and Robert  
S. Dean, Esq., Center for Appellate Litigation, 74  
Trinity Place, 11th Floor, New York, NY 10006  
assigned as counsel to the appellant on the appeal  
herein.

                      Mo. No. 2013-912  
The People &c.,  
Respondent,  
v.  
Howard Grubstein,  
Appellant.

Motion for assignment of counsel granted and  
Richard L. Herzfeld, Esq., 104 West 40th Street,  
20th Floor, New York NY 10018 assigned as counsel  
to the appellant on the appeal herein.

2 Mo. No. 2013-954

The People &c.,  
Respondent,  
v.  
Martin Heidgen,  
Appellant.

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The People &c.,  
Respondent,  
v.  
Franklin McPherson,  
Appellant.

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The People &c.,  
Respondent,  
v.  
Taliyah Taylor,  
Appellant.

1 Mo. No. 2013-952

In the Matter of James Holmes,  
Respondent,  
v.  
Jana Winter,  
Appellant,

2 Mo. No. 2013-877

The People &c.,  
Respondent,  
v.  
Benjamin Jenkins,  
Appellant.

Motion by District Attorneys Association of the State of New York for leave to appear amicus curiae on the appeals 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.

Motion by Reporters Committee for the Freedom of the Press, 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.

Motion for assignment of counsel granted and Steven Banks, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

2                    Mo. No. 2013-893  
The People &c.,  
    Respondent,  
    v.  
Raul Johnson,  
    Appellant.

Motion for assignment of counsel granted and James D. Licata, Esq., Rockland County Public Defender, 11 New Hempstead Road, New City, New York 10956 assigned as counsel to the appellant on the appeal herein.

2                    Mo. No. 2013-883  
The People &c.,  
    Respondent,  
    v.  
Jose Maldonado,  
    Appellant.

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 appellant on the appeal herein.

                    SSD 48  
Town of Montauk,  
    Appellant,  
    v.  
Hon. Lorraine Cortez-Vasquez, as Secretary  
of State of the State of New York, with  
control of, and responsibility for, the Division  
of Corporations of the Department of State,  
    Respondent.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (see NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

3                    Mo. No. 2013-701  
In the Matter of Robert Morin,  
    Respondent,  
    v.  
Town of Lake Luzerne et al.,  
    Appellants.  
Workers' Compensation Board,  
    Respondent.

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

2                    Mo. No. 2013-706  
In the Matter of Barbara N.,  
                    Appellant;  
Robert Doar,  
                    Respondent.

Motion for leave to appeal dismissed as untimely  
(see CPLR 5513[b]; CPLR 5514[c]).

1                    Mo. No. 2013-770  
In the Matter of New York City Asbestos  
Litigation.

Motion for leave to appeal granted.

Mary Andrucki, &c. et al.,  
                    Appellants,  
                    v.  
Aluminum Company of America,  
et al.,  
                    Defendants,  
Port Authority of New York and New Jersey,  
                    Respondent.

1                    Mo. No. 2013-591  
Norex Petroleum Limited,  
                    Appellant,  
                    v.  
Leonard Blavatnik, et al.,  
                    Respondents.

Motion for leave to appeal granted.

1                    Mo. No. 2013-634  
Norex Petroleum Limited,  
                    Appellant,  
                    v.  
Leonard Blavatnik, et al.,  
                    Respondents.

Motion by Thomas D. Rowe, Jr., et al. for leave to  
file a brief amici curiae on the motion for leave to  
appeal herein granted and the brief is accepted as  
filed.

1                    Mo. No. 2013-665  
Norex Petroleum Limited,  
    Appellant,  
    v.  
Leonard Blavatnik, et al.,  
    Respondents.

Motion by Jonathan R. Siegel 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. 2013-803  
The People &c.,  
    Respondent,  
    v.  
Brian Palmer,  
    Appellant.

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

2                    Mo. No. 2013-946  
Rocky Point Drive-In, L.P.,  
    Appellant,  
    v.  
Town of Brookhaven, et al.,  
    Respondents.

Motion by Association of Towns 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.

1                    Mo. No. 2013-822  
The People &c.,  
    Appellant,  
    v.  
Mark Russell,  
    Respondent.

Motion to vacate this Court's July 19, 2013 dismissal  
order granted.

4                    Mo. No. 2013-800  
In the Matter of James Smith,  
    Appellant,  
    v.  
Harold D. Graham, &c.,  
    Respondent.

Motion for leave to appeal denied.



2                    Mo. No. 2013-785  
The People &c.,  
    Respondent,  
    v.  
Robert Smith,  
    Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2013-818  
Trahwon, LLC,  
    Respondent,  
    v.  
Ming 99 Cent City #7, Inc., &c.,  
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.

2                    Mo. No. 2013-240  
The People &c.,  
    Appellant,  
    v.  
Sidney Wisdom,  
    Respondent.

Motion to require appellant to provide respondent's counsel with material granted to the extent that appellant is required to provide respondent's counsel with copies of the DVD recordings of the videotaped statements and the related excerpt from the transcript (minutes of 4/19/96, page 7, lines 3 to 8).

1                    Mo. No. 2013-898  
Rhonda Wittorf,  
    Appellant,  
    v.  
City of New York,  
    Respondent.

Motion by New York State Trial Lawyers Association for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

3                    Mo. No. 2013-796  
In the Matter of Mary YY., &c.

St. Lawrence County Department of Social  
Services,  
    Respondent;  
Albert YY.,  
    Appellant;  
et al.,  
    Respondent.

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