

December 18, 2014

CASES

1 No. 228
172 Van Duzer Realty Corp.,
 Respondent,
 v.
Globe Alumni Student Assistance
Association, Inc., et al.,
 Appellants.

Order modified, without costs, and case remitted to Supreme Court, New York County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Read, Smith and Pigott concur.
Judge Abdus-Salaam dissents and votes to affirm for reasons stated in the memorandum at the Appellate Division (102 AD3d 543 [2013]).

3 No. 225
In the Matter of Mark Ford, et al.,
 Appellants,
 v.
New York State Racing and Wagering Board,
 Respondent.

Order affirmed, with costs.
Opinion by Chief Judge Lippman.
Judges Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

2 No. 220
Allison Gammons,
 Respondent,
 v.
City of New York, et al.,
 Appellants.

Order, insofar as appealed from, affirmed, with costs, and certified question answered in the affirmative.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Smith and Abdus-Salaam concur.
Judge Pigott dissents in an opinion in which Judge Read concurs.

1 No. 226
The People &c.,
 Respondent,
 v.
Dwight Giles,
 Appellant.

Order affirmed, in a memorandum.
Judges Read, Smith, Pigott and Rivera concur, Judge
Smith in a separate concurring opinion in which
Judges Read and Pigott concur.
Judge Abdus-Salaam dissents in part in an opinion in
which Chief Judge Lippman concurs.

 No. 227
The People &c.,
 Respondent,
 v.
Sean Hawkins,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Read, Smith,
Rivera and Abdus-Salaam concur, Judge Smith
concurring in a separate opinion.
Judge Pigott dissents in an opinion.

MOTIONS

1 Mo. No. 2014-1095
721 Fruit & V. Mkt., Inc.,
 Appellant,
 v.
Stavia LLC,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2014-1132
In the Matter of Joy Arbogast,
 Appellant,
 v.
New York State Office of Children and
Family Services, &c.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-1112
In the Matter of Avalon Gardens
Rehabilitation and Health Care Center, LLC,
 Appellant,
Commissioner of Labor,
 Respondent.
(And 19 Other Related Proceedings.)

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

4 Mo. No. 2014-1117
In the Matter of Buffalo Niagara Business
Park, LLC,
 Appellant,
 v.
Board of Assessment Review for City of
Buffalo, et al.,
 Respondents,
County of Erie,
 Intervenor-Respondent.

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

2 Mo. No. 2014-1135
Coastal Purchasing Group, LLC,
Appellant,
v.
JPMCC 2005-CIBC Collins Lodging, LLC, et
al.,
Respondents.

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

1 Mo. No. 2014-1150
Janak Datwani,
Appellant,
v.
Kishin Datwani,
Respondent.

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

1 Mo. No. 2014-1106
John Fayolle,
Appellant,
v.
East West Manhattan Portfolio L.P., et al.,
Respondents.

Motion, insofar as it seeks leave to appeal as against East West Manhattan Portfolio L.P., dismissed as untimely (see CPLR 5513[b]); motion for leave to appeal otherwise denied.

2 Mo. No. 2014-1107
Richard N. Golden,
Respondent,
v.
Bernadette M. Lynch,
Appellant.

Motion for leave to appeal dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division entered in this proceeding commenced in Civil Court of the City of New York (see NY Const, art VI, § 3[b][7]; CPLR 5602[a]).
Motion for poor person relief dismissed as academic.

2 Mo. No. 2014-1103
The People &c.,
Respondent,
v.
Nisean Graves,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2014-1114
Elizabeth Francis Kerrigan, &c.,
Appellant,
v.
Metropolitan Life Insurance Company et al.,
Respondents.

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

1 Mo. No. 2014-1177
Elizabeth Francis Kerrigan, &c.,
Appellant,
v.
Metropolitan Life Insurance Company et al.,
Respondents.

Motion by United Policyholders for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.
Chief Judge Lippman took no part.

3 Mo. No. 2014-1131
Andrew McDonald,
Appellant,
v.
Winter Bros. Transfer Station Corp.,
Respondent.

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

2 Mo. No. 2014-1127
In the Matter of Stephen Mitchell,
Appellant,
v.
Lawrence Knipel, &c., et al.,
Respondents.

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

4 Mo. No. 2014-1122
In the Matter of Obsession Bar and Grill, Inc.
et al.,
 Respondents,
 v.
Zoning Board of Appeals of City of Rochester
et al.,
 Appellants.

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

1 Mo. No. 2014-1102
Osprey Partners, LLC,
 Appellant,
 v.
The Bank of New York Mellon Corporation,
et al.,
 Respondents.

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

1 Mo. No. 2014-1124
The People &c.,
 Respondent,
 v.
Michael Pratt,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2014-1128
Yaniveth R., &c. et al.,
 Appellants,
 v.
LTD Realty Co. et al.,
 Respondents,
et al.,
 Defendants.
(And a Third-Party Action)

Motion for leave to appeal granted.

2 Mo. No. 2014-1133
In the Matter of Thomas Richards,
 Respondent,
 v.
Board of Fire Commissioners of Brentwood
Fire District, et al.,
 Appellants.

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

3 Mo. No. 2014-1116
In the Matter of Norman Samuels,
 Appellant,
 v.
New York City Transit Authority,
 Respondent.
Commissioner of Labor,
 Respondent.

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

3 Mo. No. 2014-1158
In the Matter of Norman Samuels,
 Appellant,
 v.
New York City Transit Authority,
 Respondent.
Commissioner of Labor,
 Respondent.

Motion by Gary Minda for leave to file a brief amicus curiae on the motion for reargument of motion for leave to appeal herein granted and the brief is accepted as filed.

3 Mo. No. 2014-1159
In the Matter of Norman Samuels,
 Appellant,
 v.
New York City Transit Authority,
 Respondent.
Commissioner of Labor,
 Respondent.

Motion by Gary I. Boretsky for leave to file a brief amicus curiae on the motion for reargument of motion for leave to appeal herein granted and the brief is accepted as filed.

3 Mo. No. 2014-1160
In the Matter of Norman Samuels,
 Appellant,
 v.
New York City Transit Authority,
 Respondent.
Commissioner of Labor,
 Respondent.

Motion by Transport Workers Union Local 100 for leave to file a brief amicus curiae on the motion for reargument of motion for leave to appeal herein granted and the brief is accepted as filed.

4 Mo. No. 2014-1145
The People &c. ex rel. Kester Sandy,
 Appellant,
 v.
Harold D. Graham, &c.,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

4 Mo. No. 2014-1130
In the Matter of Anastasia S., et al.

Cattaraugus County Department of Social
Services,
 Respondent;
Michael S.,
 Appellant.

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

2 Mo. No. 2014-1099
Scottsdale Indemnity Company,
 Respondent,
 v.
Julianne W. Beckerman, &c., et al.,
 Appellants,
et al.,
 Defendants.

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

4 Mo. No. 2014-1111
In the Matter of Sheridan Park, Inc. et al.,
 Appellants,
 v.
New York State Division of Cemeteries, et
al.,
 Respondent.

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

3 Mo. No. 2014-1104
In the Matter of Howard I. Smith,
 Appellant,
 v.
New York State Office of the Attorney
General,
 Respondent.

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

4 Mo. No. 2014-1100
In the Matter of Kahlin T.D.W.

Allegany County Department of Social
Services,
 Respondent;
Betsey J.D.,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

4 Mo. No. 2014-1120
April M. Williams,
 Appellant,
 v.
Charles A. Fassinger et al.,
 Respondents.

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