

October 27, 2016

**CASES**

4                    No. 142  
In the Matter of County of Cayuga,  
    Appellant,  
    v.  
Nirav R. Shah, &c., et al.,  
    Respondents.

Order, insofar as appealed from, affirmed, without costs.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Pigott and Abdus-Salaam concur.  
Judge Garcia concurs in result in a separate concurring opinion.  
Judges Stein and Fahey took no part.

4                    No. 138  
In the Matter of County of Chautauqua,  
    Appellant,  
    v.  
Nirav R. Shah, &c., et al.,  
    Respondents.

Order, insofar as appealed from, affirmed, without costs.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Pigott and Abdus-Salaam concur.  
Judge Garcia concurs in result in a separate concurring opinion.  
Judges Stein and Fahey took no part.

3                    No. 136  
In the Matter of County of Chemung,  
    Respondent,  
    v.  
Nirav R. Shah, &c., et al.,  
    Appellants.

Order, insofar as appealed from, reversed, without costs, petition dismissed in its entirety and a declaration made in favor of respondents Nirav R. Shah, &c., et al. that section 61 of part D of Chapter 56 of the Laws of 2012 has not been shown to be unconstitutional.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Pigott and Abdus-Salaam concur.  
Judge Garcia concurs in result in a separate concurring opinion.  
Judges Stein and Fahey took no part.

4                    No. 141  
In the Matter of County of Genesee,  
    Appellant,  
    v.  
Nirav R. Shah, &c., et al.,  
    Respondents.

Order, insofar as appealed from, affirmed, without costs.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Pigott and Abdus-Salaam concur.  
Judge Garcia concurs in result in a separate concurring opinion.  
Judges Stein and Fahey took no part.

4                    No. 139  
In the Matter of County of Jefferson,  
    Appellant,  
    v.  
Nirav R. Shah, &c., et al.,  
    Respondents.

Order, insofar as appealed from, affirmed, without costs.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Pigott and Abdus-Salaam concur.  
Judge Garcia concurs in result in a separate concurring opinion.  
Judges Stein and Fahey took no part.

4                    No. 143  
In the Matter of County of Monroe,  
    Appellant,  
    v.  
Nirav R. Shah, &c., et al.,  
    Respondents.

Order, insofar as appealed from, affirmed, without costs.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Pigott and Abdus-Salaam concur.  
Judge Garcia concurs in result in a separate concurring opinion.  
Judges Stein and Fahey took no part.

4                    No. 140  
In the Matter of County of Oneida,  
    Appellant,  
    v.  
Nirav R. Shah, &c., et al.,  
    Respondents.

Order, insofar as appealed from, affirmed, without costs.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Pigott and Abdus-Salaam concur.  
Judge Garcia concurs in result in a separate concurring opinion.  
Judges Stein and Fahey took no part.

3                    No. 137  
In the Matter of County of St. Lawrence,  
    Respondent,  
    v.  
Nirav R. Shah, &c., et al.,  
    Appellants.  
(And Two Other Related Proceedings.)

1                    No. 145  
The People &c.,  
    Respondent,  
    v.  
Lerio Guerrero,  
    Appellant.

1                    No. 155  
Justinian Capital SPC &c.,  
    Appellant,  
    v.  
WestLB AG, &c., et al.,  
    Respondents.

Order, insofar as appealed from, reversed, without costs, petitions dismissed in their entirety and a declaration made in favor of respondents Nirav R. Shah, &c., et al. that section 61 of part D of Chapter 56 of the Laws of 2012 has not been shown to be unconstitutional.

Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Pigott and Abdus-Salaam concur.  
Judge Garcia concurs in result in a separate concurring opinion.  
Judges Stein and Fahey took no part.

Order affirmed.  
Opinion by Judge Pigott.  
Chief Judge DiFiore and Judges Abdus-Salaam, Stein, Fahey and Garcia concur.  
Judge Rivera dissents in an opinion.

Order affirmed, with costs.  
Opinion by Chief Judge DiFiore.  
Judges Rivera, Abdus-Salaam, Fahey and Garcia concur.  
Judge Stein dissents in an opinion in which Judge Pigott concurs.

3                    No. 163  
Stacy S. Killon,  
    Respondent,  
    v.  
Robert A. Parrotta,  
    Appellant.

Order appealed from and the August 30, 2012 Appellate Division order insofar as brought up for review reversed, with costs, and matter remitted to Supreme Court, Warren County, for a new trial in accordance with the opinion herein.  
Opinion by Judge Abdus-Salaam.  
Chief Judge DiFiore and Judges Pigott, Rivera, Fahey and Garcia concur.  
Judge Stein took no part.

1                    No. 146  
In the Matter of Jamal S., a Person Alleged to  
be a Juvenile Delinquent,  
    Respondent.  
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Presentment Agency,  
    Appellant.

Order reversed, without costs, and dispositional order of Family Court, Bronx County, reinstated.  
Opinion by Judge Pigott.  
Judges Abdus-Salaam, Fahey and Garcia concur.  
Judge Rivera dissents and votes to dismiss the appeal, in an opinion in which Chief Judge DiFiore and Judge Stein concur.

2                    No. 148  
Utica Mutual Insurance Company &c.,  
    Appellant,  
    v.  
Style Management Associates Corp., et al.,  
    Respondents,  
et al.,  
    Defendants.

Order reversed, with costs, motion of defendants Style Management Associates Corp., Style Management Corp. and Yosi Sason for summary judgment dismissing the complaint denied and certified question answered in the negative, in a memorandum.  
Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

## MOTIONS

3                    Mo. No. 2016-737  
Chianis & Anderson Architects, PLLC,  
    Respondent,  
    v.  
Courterback Development Company, LLC, et  
al.,                    Appellants,  
et al.,                    Defendant.

Motion, insofar as R2 Development Company, LLC seeks leave to appeal from so much of the Appellate Division order as affirmed so much of the Supreme Court judgment as against it, denied; motion for leave to appeal otherwise dismissed upon the ground that the remainder of the Appellate Division order from which leave to appeal is sought does not finally determine the action as to the remaining parties within the meaning of the Constitution.

3                    Mo. No. 2015-1053  
In the Matter of County of Broome,  
    Respondent,  
    v.  
Nirav R. Shah, &c., et al.,  
    Appellants.

Motion for leave to appeal granted.  
Judges Stein and Fahey took no part.

4                    Mo. No. 2015-903  
In the Matter of County of Cayuga,  
    Appellant,  
    v.  
Nirav R. Shah, &c., et al.,  
    Respondents.

Motion for leave to appeal denied on the ground that an appeal lies as of right (CPLR 5601[b][1]).  
Judges Stein and Fahey took no part.

4                    Mo. No. 2015-492  
In the Matter of County of Chautauqua,  
    Appellant,  
    v.  
Nirav R. Shah, &c., et al.,  
    Respondents.

Motion for leave to appeal denied on the ground that an appeal lies as of right (CPLR 5601[b][1]).  
Judges Stein and Fahey took no part.

4                    Mo. No. 2015-636  
In the Matter of County of Genesee,  
Appellant,  
v.  
Nirav R. Shah, &c., et al.,  
Respondents.

Motion for leave to appeal denied on the ground that an appeal lies as of right (CPLR 5601[b][1]).  
Judges Stein and Fahey took no part.

4                    Mo. No. 2015-491  
In the Matter of County of Jefferson,  
Appellant,  
v.  
Nirav R. Shah, &c., et al.,  
Respondents.

Motion for leave to appeal denied on the ground that an appeal lies as of right (CPLR 5601[b][1]).  
Judges Stein and Fahey took no part.

4                    Mo. No. 2015-902  
In the Matter of County of Monroe,  
Appellant,  
v.  
Nirav R. Shah, &c., et al.,  
Respondents.

Motion for leave to appeal denied on the ground that an appeal lies as of right (CPLR 5601[b][1]).  
Judges Stein and Fahey took no part.

4                    Mo. No. 2015-635  
In the Matter of County of Oneida,  
Appellant,  
v.  
Nirav R. Shah, &c., et al.,  
Respondents.

Motion for leave to appeal denied on the ground that an appeal lies as of right (CPLR 5601[b][1]).  
Judges Stein and Fahey took no part.

2                    Mo. No. 2016-713  
Lesley Drazek,  
Appellant,  
v.  
Vital Transportation, Inc.,  
Respondent.

Motion for reargument of motion for leave to appeal dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] § 500.24[b]).  
Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.

2                    Mo. No. 2016-727  
Financial Services Vehicle Trust,  
    Plaintiff,  
    v.  
Andre H. Saad,  
    Appellant.  
Government Employees Insurance Company,  
    Respondent,  
Bellavia, Gentile & Associates, LLP, et al.,  
    Respondents,  
et al.,  
    Third-Party Defendants.

Motion, insofar as it seeks leave to appeal as against Government Employees Insurance Company, dismissed upon the ground that as to it the order sought to be appealed from does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

4                    Mo. No. 2016-801  
The People &c.,  
    Respondent,  
    v.  
Daniel Finocchiaro,  
    Appellant.

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

3                    Mo. No. 2016-796  
In the Matter of Peter Garcia,  
    Appellant,  
    v.  
Cheryl V. Morris, &c.,  
    Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2016-800  
Anthony Garguilo,  
    Appellant,  
    v.  
Port Authority of New York & New Jersey, et  
al.,  
    Respondents.

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

4                    Mo. No. 2016-805  
In the Matter of William E. Hamilton,  
                  Appellant,  
                  v.  
Mary Alley, et al.,  
                  Respondents.

Motion for leave to appeal denied.

3                    Mo. No. 2016-816  
Johnathan Johnson,  
                  Appellant,  
                  v.  
Cynthia Neidl,  
                  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.  
Motion for poor person relief dismissed as academic.

3                    Mo. No. 2016-781  
Knickerbocker Development Corp.,  
                  Appellant,  
                  v.  
State of New York,  
                  Respondent.

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

3                    Mo. No. 2016-787  
Lakeside Realty LLC,  
                  Appellant,  
                  v.  
County of Sullivan, et al.,  
                  Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2016-782  
Michael Masciello,  
                  Appellant,  
                  v.  
Incorporated Village of Lloyd Harbor, et al.,  
                  Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2016-780  
In the Matter of Michael Masullo,  
                         Respondent,  
                         v.  
City of Mount Vernon et al.,  
                         Appellants.

Motion for leave to appeal denied.

1                    Mo. No. 2016-970  
In the Matter of Lizzette Morales,  
                         Appellant,  
                         v.  
New York City Housing Authority,  
                         Respondent.

Motion for leave to appeal dismissed as untimely  
(see CPLR 5513[b]).  
Motion for poor person relief dismissed as academic.  
Motion for a stay dismissed as academic.

3                    Mo. No. 2016-783  
Tatiana Neroni,  
                         Appellant,  
                         v.  
Jonathan S. Follender et al.,  
                         Respondents.

Motion for reargument denied.  
Judges Stein and Fahey took no part.

1                    Mo. No. 2016-819  
Paramount Leasehold, L.P.,  
                         Respondent,  
                         v.  
43rd Street Deli, Inc., doing business as Bella  
Vita Pizzeria,  
                         Appellant.

Motion, insofar as it seeks leave to appeal from so  
much of the Appellate Division order as affirmed so  
much of the Supreme Court order as denied the  
application to compel arbitration, denied; motion for  
leave to appeal otherwise dismissed upon the ground  
that the remainder of the order does not finally  
determine the action within the meaning of the  
Constitution.

2                    Mo. No. 2016-826  
In the Matter of Sand Land Corporation, et  
al.,  
                  Appellants,  
          v.  
Zoning Board of Appeals of Town of  
Southampton, et al.,  
                  Respondents.

Motion for leave to appeal denied.

4                    Mo. No. 2016-769  
Scott Schaffer,  
                  Appellant,  
          v.  
Lorraine Jaskowiak et al.,  
                  Respondents.

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

3                    Mo. No. 2016-803  
In the Matter of Thomas J. Schneider,  
                  Appellant,  
          v.  
Schuyler County,  
                  Respondent.

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

2                    Mo. No. 2016-778  
Joseph Schottland, et al.,  
                  Respondents,  
          v.  
Brown Harris Stevens Brooklyn, LLC, et al.,  
                  Defendants,  
Jenny Netzer, &c., et al.,  
                  Appellants.  
Timothy M. Costello, &c.,  
                  Respondent.

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

1 Mo. No. 2016-799  
Lin Shi,  
Appellant,  
v.  
Panagis Alexandratos, et al.,  
Respondents.

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

4 Mo. No. 2016-789  
The People &c.,  
Respondent,  
v.  
Willie Singleton,  
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.  
Motion for poor person relief dismissed as academic.

1 Mo. No. 2016-714  
Richard Sitomer,  
Appellant,  
v.  
Goldweber Epstein, LLP et al.,  
Respondents.

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

4 Mo. No. 2016-804  
Weydman Electric, Inc.,  
Appellant,  
v.  
Joint Schools Construction Board, 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.

1 Mo. No. 2016-790  
The People &c.,  
Respondent,  
v.  
Bryant Whitaker,  
Appellant.

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

1                    Mo. No. 2016-794  
Douglas H. Wigdor,  
    Appellant,  
    v.  
SoulCycle, LLC, et al.,  
    Respondents.

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