

June 25, 2009

**CASES**

3	No. 113	Order affirmed, with costs. Opinion by Judge Read. Chief Judge Lippman and Judges Ciparick, Graffeo, Smith, Pigott and Jones concur.
In the Matter of Central Mutual Insurance Company, Respondent, v. Beverly Bemiss, Appellant.		
1	No. 176 SSM 21	On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, motions for summary judgment by defendants- appellants granted and certified question answered in the negative. Plaintiff's legal malpractice claim was not brought within the applicable statute of limitations period, and defendants-appellants established as a matter of law that the continuous representation doctrine does not apply. Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur. Chief Judge Lippman took no part.
Bernadette Gotay, Respondent, v. David Breitbart, et al., Defendants, Michael Handwerker, et al., Appellants.		
4	No. 117	Order reversed, with costs, and judgment of Supreme Court, Onondaga County, reinstated. Opinion by Chief Judge Lippman. Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.
Joseph Kassis and Kassis Superior Sign Co., Inc., Appellants, v. The Ohio Casualty Insurance Company, Respondent.		

2                   No. 174   SSM 18  
The People &c.,  
                    Respondent,  
                    v.  
James McGranham,  
                    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order modified by dismissing the count of the indictment charging defendant with criminally negligent homicide and, as so modified, affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

3                   No. 108  
In the Matter of New York Charter  
Schools Association, Inc., et al.  
                    Appellants,  
                    v.  
Thomas P. DiNapoli, as  
Comptroller of the State of New  
York, et al.,  
                    Respondents.

Order reversed, with costs, and order and judgment of Supreme Court, Albany County, reinstated.  
Opinion by Judge Ciparick.  
Judges Read, Smith and Jones concur.  
Chief Judge Lippman concurs in result in an opinion.  
Judge Graffeo concurs in result in an opinion in which Judge Pigott concurs.

1                   No. 111  
In the Matter of Virginia  
Parkhouse,  
                    Appellant,  
                    v.  
Scott M. Stringer, Borough  
President of Manhattan, et al.,  
                    Respondents.

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

**MOTIONS**

2                   Mo. No. 2009-559  
Aames Funding Corporation, &c.,  
                    Respondent,  
                    v.  
Leonard W. Houston,  
                    Appellant,  
et al.,  
                    Defendants.

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.

                    Mo. No. 2009-674  
In the Matter of the Honorable Francis M. Alessandro, a Judge of the New York City Civil Court, Bronx County,  
                    Petitioner,  
For Review of a Determination of State Commission on Judicial Conduct,  
                    Respondent.

Motion to enlarge the record denied. Chief Judge Lippman took no part.

1                   Mo. No. 2009-512  
Barnan Associates,  
                    Respondent,  
                    v.  
196 Owners Corp.,  
                    Appellant.

Motion for leave to appeal granted. Chief Judge Lippman took no part.

2                   Mo. No. 2009-530  
In the Matter of Board of Education of Bay Shore Union Free School District,  
                    Appellant,  
                    v.  
Thomas Kain, &c.,  
                    Respondent.

Motion for leave to appeal granted.

4                    Mo. No. 2009-531  
Barbara A. Bielli,  
                          Respondent,  
                  v.  
Girard Bielli,  
                          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.

1                    Mo. No. 2009-555  
In the Matter of Winford Kent  
Bishop, an attorney and  
counselor-at-law.

Motion for reconsideration of this Court's April 7, 2009 dismissal order denied.  
Chief Judge Lippman took no part.

Departmental Disciplinary  
Committee for the First Judicial  
Department,  
                          Respondent,  
                  v.  
Winford Kent Bishop,  
                          Appellant.

1                    Mo. No. 2009-600  
In the Matter of Winford Kent  
Bishop, an attorney and  
counselor-at-law.

Motion for leave to appeal denied.  
Chief Judge Lippman took no part.

Departmental Disciplinary  
Committee for the First Judicial  
Department,  
                          Respondent,  
                  v.  
Winford Kent Bishop,  
                          Appellant.

3                    Mo. No. 2009-532  
In the Matter of Reginald Brower,  
                          Appellant,  
                  v.  
D. Venettozzi, &c., et al.,  
                          Respondents.

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

2                   Mo. No. 2009-535  
Susan Cambizaca, &c.,  
                    Appellant,  
                    v.  
New York City Transit Authority,  
                    Respondent.

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

1                   Mo. No. 2009-527  
In the Matter of Javone C., &c.,  
                    Appellant.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot. Motion for poor person relief dismissed as academic.

2                   Mo. No. 2009-416  
Joseph Casavecchia, Sr.,  
                    Respondent,  
                    v.  
William W. Mizrahi, et al.,  
                    Appellants.

Motion, insofar as Hills of Heartland, LLC and Casa Mason Corp. seek leave to appeal from the Appellate Division order that affirmed Supreme Court's order holding defendant William W. Mizrahi in contempt, dismissed upon the ground that said appellants are not aggrieved by such order; motion, insofar as William W. Mizrahi seeks leave to appeal from the Appellate Division order that affirmed Supreme Court's order holding him in contempt, dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1                   SSD 33  
The People &c.,  
                    Respondent,  
                    v.  
Salvador Diaz,  
                    Appellant.

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

2                    Mo. No. 2009-534  
In the Matter of Nicholas R.  
Doman, deceased.

Motion for leave to appeal denied.

Cynthia P. Schneider, Successor  
Executor of the Estate of Judith  
N. Doman (substituted for Paul  
Green, deceased),  
                          Appellant;  
Alexander Doman, et al.,  
                          Respondents.  
(And Another Proceeding.)

3                    Mo. No. 2009-561  
Shawn Green,  
                          Appellant,  
                          v.  
State of New York,  
                          Respondent.

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

4                    Mo. No. 2009-545  
In the Matter of Ahmad H. et al.  
  
Onondaga County Department of  
Social Services,  
                          Respondent;  
Vennetta J.,  
                          Respondent;  
Earl H.,  
                          Appellant.

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

1                    Mo. No. 2009-543  
The People &c.,  
                          Respondent,  
                          v.  
Major Harden,  
                          Appellant.

Motion, insofar as it seeks leave to  
appeal from that portion of the  
Appellate Division order that denied  
the motion to strike portions of the  
People's Appellate Division brief,  
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.  
Motion for poor person relief  
dismissed as academic.

2                   SSD 34  
Yoko Hense,  
                    Respondent,  
                    v.  
Michael A. Hense,  
                    Appellant.

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

3                   Mo. No. 2009-533  
In the Matter of Kole HH. et al.,  
&c.  
  
Broome County Department of  
Social Services,  
                    Respondent;  
Thomas HH.,  
                    Appellant;  
et al.,  
                    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.

1                   Mo. No. 2009-540  
Edward A. Kaminsky,  
                    Appellant,  
                    v.  
Herrick, Feinstein LLP, et al.,  
                    Respondents.

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

1                   Mo. No. 2009-551  
Charles Khoury, et al.,  
                    Appellants,  
                    v.  
Katherine Khoury, &c.,  
                    Respondent.

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

2                   Mo. No. 2009-548  
In the Matter of Thaddeus  
Klingman, deceased.  
  
Herminia Ramos-Donovan,  
                    Respondent;  
Ryan Klingman,  
                    Appellant.

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

2                   Mo. No. 2009-536  
Pamela B. Lee,  
                    Respondent,  
                    v.  
Kenneth Lee,  
                    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. 2009-556  
Alexis Llorente, &c.,  
                    Plaintiff,  
Carmen Lee, &c.,  
                    Appellant,  
                    v.  
City of New York, et al.,  
                    Respondents,  
et al.,  
                    Defendants.

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.

4                   Mo. No. 2009-546  
LM Property and Casualty Company,  
Inc., &c.,  
                    Respondent,  
                    v.  
Douglas L. Evans, as  
Administrator of the Estate of  
Isaac A. Evans, Deceased,  
                    Appellant,  
et al.,  
                    Defendants.

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

3                   Mo. No. 2009-552  
In the Matter of James McMoore,  
                    Appellant,  
                    v.  
Brian Fischer, &c.,  
                    Respondent.

Motion for leave to appeal denied.

4                   Mo. No. 2009-560  
In the Matter of John Nevarez,  
                    Appellant,  
                    v.  
Carl B. Hunt, Superintendent,  
Groveland Correctional Facility,  
                    Respondent.

Motion for leave to appeal denied.

2                   Mo. No. 2009-105  
NYCTL 1999-1 Trust et al.,  
                    Respondents,  
                    v.  
573 Jackson Avenue Realty Corp.,  
                    Appellant,  
City of New York Bureau of  
Highway Operations, et al.,  
                    Defendants.

Motion for leave to appeal granted.

2                   Mo. No. 2009-537  
In the Matter of Benjamin Perez,  
                    Respondent,  
                    v.  
Grissel Sepulveda,  
                    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.

4                   Mo. No. 2009-541  
In the Matter of Residents  
Against Wal-Mart, by its  
President Donn P. Rice,  
                    Appellant,  
                    v.  
Planning Board of Town of Greece,  
et al.,  
                    Respondents.

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

2                   Mo. No. 2009-553  
Maryellen Ruane-Wilkens,  
                    Appellant,  
                    v.  
Board of Education of City of New  
York, et al.,  
                    Respondents.

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

1                   Mo. No. 2009-508  
Steven B. Samuel, Esq., et al.,  
                  Respondents-Appellants,  
                  v.  
Druckman & Sinel, LLP, et al.,  
                  Appellants-Respondents.

Motion to resettle, amend and clarify  
the opinion and remittitur or, in the  
alternative, for reargument denied.  
Chief Judge Lippman took no part.

2                   Mo. No. 2009-635  
Dale R. San Marco et al.,  
                  Appellants,  
                  v.  
Village/Town of Mount Kisco,  
                  Respondent.

Motion to vacate this Court's May 20,  
2009 dismissal order granted.

4                   Mo. No. 2009-542  
In the Matter of Kahlil S.  
  
Erie County Department of Social  
Services,  
                  Appellant,  
Mamie W.-K.,  
                  Respondent.  
(And Another Proceeding.)

Motion for leave to appeal, insofar as  
it relates to Kahlil S., dismissed  
upon the ground that appellant is not  
a party aggrieved (see CPLR 5511);  
motion for leave to appeal, insofar as  
it relates to Terrell Z., Jr.,  
dismissed upon the ground that the  
issues presented have become moot.  
Motion for a stay dismissed as  
academic.

2                   Mo. No. 2009-547  
Jasvir Singh,  
                  Appellant,  
                  v.  
Abdu Mohamed, et al.,  
                  Respondents.

Motion, insofar as it seeks leave to  
appeal from that part of the Appellate  
Division order that affirmed so much  
of the November 2007 Supreme Court  
order as denied appellant's motion for  
renewal, dismissed upon the ground  
that such part of the order does not  
finally determine the action within  
the meaning of the Constitution;  
motion for leave to appeal otherwise  
denied.

2                   SSD 38  
In the Matter of Anselmo Soto,  
Jr.,  
                    Appellant,  
                    v.  
Brian Fischer, &c.,  
                    Respondent.

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

3                   Mo. No. 2009-538  
In the Matter of Anthony TT.  
et al., &c.  
  
St. Lawrence County Department of  
Social Services,  
                    Respondent;  
Philip TT.,  
                    Appellant.

Motion for leave to appeal denied.

2                   Mo. No. 2009-578  
In the Matter of Darren V.  
(Anonymous).  
  
Orange County Department of  
Social Services,  
                    Respondent;  
Lori W. (Anonymous) et al.,  
                    Appellants.  
(And Another Proceeding.)

Motions for leave to appeal denied.

2                   Mo. No. 2009-550  
Vista Properties, LLC,  
                    Respondent,  
                    v.  
Rockland Ear, Nose & Throat  
Associates, P.C.,  
                    Appellant,  
et al.,  
                    Defendants.

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.

4                   Mo. No. 2009-558  
The People &c. ex rel. Charles W.  
Waid,  
                    Appellant,  
                    v.  
John Lempke, &c.,  
                    Respondent.

Motion for leave to appeal denied.

2                   Mo. No. 2009-557  
In the Matter of Board of  
Education of William Floyd Union  
Free School District,  
                    Appellant,  
                    v.  
Gary Lemay,  
                    Respondent.

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