

JUNE 12, 2008

CASES

3 No. 104
Frederick Berg,
 Appellant,
 v.
Albany Ladder Company, Inc.,
 Defendant,
Markan Associates, LLC et al.,
 Respondents.

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

Capital Framing and Construction Corporation,
 Third-Party Plaintiff,
 v.
Stone Bridge Iron & Steel, et al.,
 Third-Party Respondents.

3 No. 102
In the Matter of Dominick Giaquinto,
 Appellant,
 v.
Commissioner of New York State Department of Health,
 Respondent,
et al.,
 Respondent.

Order reversed, with costs, and matter remitted to Supreme Court, Albany County, for further proceedings in accordance with the opinion herein. Opinion by Judge Jones. Chief Judge Kaye and Judges Graffeo and Read concur. Judge Pigott dissents and votes to affirm in an opinion in which Judge Smith concurs. Judge Ciparick took no part.

3 No. 92
The People &c., Respondent,
 v.
Burton Jeffrey Hunter,
 Appellant.

Order reversed, defendant's CPL 440.10 motion to vacate the judgment of conviction and sentence granted and a new trial ordered.
Opinion by Judge Smith.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

1 No. 135 SSM 13
The People &c., Respondent,
 v.
John Malaussena,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1 No. 94
936 Second Avenue L.P., Appellant,
 v.
Second Corporate Development Co.,
Inc., et al., Respondents.

Order reversed, with costs, and judgment granted declaring in accordance with the opinion herein.
Opinion by Judge Graffeo.
Chief Judge Kaye and Judges Ciparick, Read, Smith, Pigott and Jones concur.

2 No. 100
Pamela Tutrani et al., Appellants,
 v.
County of Suffolk, et al.,
et al., Respondents,
 Defendants.

Order reversed, with costs, and case remitted to the Appellate Division, Second Department, for consideration of issues raised but not determined on the appeal to that court, in a memorandum.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1 No. 98
In the Matter of Richard A.
Zalk (admitted as Richard
Alan Zalk), an Attorney and
Counselor-at-Law.

Departmental Disciplinary
Committee for the First Judicial
Department,
 Respondent,
Richard A. Zalk,
 Appellant.

Order reversed, with costs, and matter remitted to the Appellate Division, First Department, for further proceedings in accordance with the opinion herein.
Opinion Per Curiam.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

2-10 Mo. No. 479
The People &c., Respondent,
v.
Roberto Hernandez,
Appellant.

Motion for leave to appeal denied.

1-13 Mo. No. 452
Hunts Point Multi-Service Center,
Inc., Respondent,
v.
Carman Bizardi,
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.

1-10 Mo. No. 451
The People &c., Respondent,
v.
Edgar Imbert,
Appellant.

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

1 Mo. No. 432
In the Matter of Gilbert Lau,
Appellant,
v.
Hon. Lucindo Suarez, &c., et al.,
Respondents.

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

3-10 Mo. No. 498
In the Matter of Alfredo Lugo,
Appellant,
v.
Glenn S. Goord, &c.,
Respondent.

Motion for leave to appeal denied.

1-10 Mo. No. 429
In the Matter of Portret M.,
et al., &c.

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

Wileen J.,
Appellant,
Administration for Children's
Services,
Respondent.

2 Mo. No. 421
The People &c.,
Respondent,
v.
Ahmed Moghaless,
Appellant.

Motion to dismiss appeal granted, without
costs, and appeal dismissed as moot.

1-10 Mo. No. 415
The People &c.,
Respondent,
v.
James Pendergrast,
Appellant.

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

Mo. No. 537
Anthony Quattrocchi,
Respondent,
v.
F.J. Sciame Construction Co.,
Inc.,
Respondent,

Motion to vacate this Court's April 14,
2008 dismissal order granted.

F.J. Sciame Construction Co.,
Inc., &c.,
Third-Party Respondent,
v.
Complete Construction Consortium,
Inc.,
Third-Party Respondent,
United Airconditioning Corp.,
Third-Party Appellant.

4-10 Mo. No. 355
Leondis Rife et al.,
Appellants,
v.
The Barnes Firm, P.C., &c.,
Respondent.

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

2-10 Mo. No. 486
The People &c.,
Respondent,
v.
Edward Rouff,
Appellant.

Motion for leave to appeal denied.

1-10 Mo. No. 427
David Simons, &c.,
Appellant,
v.
Lycee Francais de New York et
al.,
Respondents.

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

3-13 Mo. No. 340
In the Matter of Dainell Stokes,
Claimant,
v.
Valeo Electrical Systems, Inc.,
et al.,
Respondents,
Special Funds Conservation
Committee,
Appellant,
Workers' Compensation Board,
Respondent.

Motion for leave to appeal denied.

2-10 Mo. No. 513
Erick R. Umanzor,
Appellant,
v.
Charles Hofer Painting &
Wallpapering, Inc.,
Respondent,
et al.,
Defendants.
(And Third-Party Actions.)

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

1-10 Mo. No. 472
Mario Vitti, et al.,
Respondents,
v.
Hermitage Insurance Company,
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.

2-14 Mo. No. 455
Washington Mutual Bank, FA, &c.,
Respondent,
v.
Peak Health Club, Inc., et al.,
Appellants,
Merrill Lynch Business Financial
Services, Inc., et al.,
Respondents,
et al.,
Defendants.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the actions within the meaning of the Constitution. Forms of relief within a single cause of action cannot be expressly or impliedly severed (see *Burke v Crosson*, 85 NY2d 10, 18 n 5 [1995]). The unresolved issue as to a deficiency judgment renders the order in Action No. 2 nonfinal.

Merrill Lynch Business Financial
Services, Inc.,
Respondent,
v.
Peak Health Club, Inc., et al.,
Appellants,
Washington Mutual Bank, FA,
Respondent.
(And a Third-Party Action.)

