

MARCH 18, 2008

CASES

1                   No.     36  
Appleton Acquisition, LLC, et  
al.,  
                          Appellants,  
                  v.  
The National Housing Partnership,  
et al.,  
                          Respondents.

Order affirmed, with costs.  
Opinion by Judge Graffeo.  
Judges Read, Smith and Pigott concur.  
Judge Ciparick dissents in part and votes  
to reinstate the fourth and fifth causes  
of action in an opinion in which Chief  
Judge Kaye and Judge Jones concur.

1                   No.     43  
Danielle Bernstein, &c. et al.,  
                          Appellants,  
                  v.  
Penny Whistle Toys, Inc., et al.,  
                          Respondents.  
(And a Third-Party Action.)

Order affirmed, with costs, in a  
memorandum.  
Chief Judge Kaye and Judges Ciparick,  
Graffeo, Read, Smith, Pigott and Jones  
concur.

1                   No.     28  
In the Matter of Virginia  
Henneberry,  
                          Appellant,  
                  v.  
ING Capital Advisers, LLC,  
et al.,  
                          Respondents.

Order affirmed, with costs.  
Opinion by Judge Ciparick.  
Chief Judge Kaye and Judges Graffeo,  
Read, Smith, Pigott and Jones concur.

1                   No.     31  
The People &c.,  
                          Respondent,  
                  v.  
Anthony Jones,  
                          Appellant.

Order affirmed.  
Opinion by Judge Pigott.  
Chief Judge Kaye and Judges Ciparick,  
Graffeo, Read, Smith and Jones concur.

No. 110  
In the Matter of the  
Consideration of the removal  
of Hon. David Gross from the  
office of Judge of the Nassau  
County District Court, Tenth  
Judicial District, pursuant to  
New York State Constitution,  
Article 6, section 22 and  
Judiciary Law section 44,  
subd. 8.

On the Court's own motion, it is  
determined that Honorable David Gross is  
removed, effective immediately, from his  
office of Judge of the Nassau County  
District Court, Tenth Judicial District,  
pursuant to New York Constitution, article  
VI, 22(f) and Judiciary Law 44(8).  
Chief Judge Kaye and Judges Ciparick,  
Grafteo, Read, Smith, Pigott and Jones  
concur.

1 No. 30  
The People &c.,  
Respondent,  
v.  
Jose Martin Taveras, Also Known  
as Jose Martin Tavares, Also  
Known as Jose Taveras,  
Appellant.

Order affirmed.  
Opinion by Judge Pigott.  
Chief Judge Kaye and Judges Ciparick,  
Grafteo, Read, Smith and Jones concur.

2 No. 32  
Watral & Sons, Inc.,  
Appellant,  
v.  
OC Riverhead 58, LLC,  
Respondent,  
et al.,  
Defendants.

Order, insofar as appealed from, reversed,  
with costs, and judgment of Supreme Court,  
Suffolk County, reinstated.  
Opinion by Judge Read.  
Chief Judge Kaye and Judges Ciparick,  
Grafteo, Smith, Pigott and Jones concur.

MOTIONS

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2-10 Mo. No. 59  
Aames Funding Corporation, &c.,  
Respondent,  
v.  
Leonard W. Houston,  
Appellant,  
et al.,  
Defendants.

Motion for leave to appeal denied.

4-10 Mo. No. 137  
In the Matter of Charles B. &c.  
et al.

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

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Onondaga County Department of  
Social Services,  
Respondent;  
Charles B., III,  
Appellant,  
et al.,  
Respondent.

2-10 Mo. No. 165  
Bernadette Panzella, P.C.,  
Appellant,  
v.  
Gerard D. DeSantis,  
Respondent;  
Adam Stanger D.C., P.C.,  
Nonparty-Respondent.

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

2-14 Mo. No. 65  
In the Matter of Cathedral  
Properties Corp.,  
Appellant,  
v.  
Jacques Blinbaum 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 proceeding within the meaning of the  
Constitution.

1-10 Mo. No. 106  
In the Matter of Paul Dalton,  
Appellant,  
v.  
Raymond Kelly, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

4-10 Mo. No. 136  
In the Matter of Alexis D.  
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Erie County Department of Social  
Services,  
Respondent;  
Janice P.,  
Respondent;  
Barrie D.,  
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.

2-10 Mo. No. 110  
Delphi Restoration Corporation et  
al.,  
Respondents,  
v.  
Sunshine Restoration Corporation,  
Defendant,  
Utica First Insurance Company,  
Appellant.

Motion for reargument of motion for leave  
to appeal denied.

1-10 Mo. No. 114  
The People &c.,  
Respondent,  
v.  
Teddy Faison,  
Appellant.

Motion for leave to appeal denied.

1-14 Mo. No. 214  
Ruchama Gamiel,  
Respondent,  
v.  
Curtis & Riess-Curtis, P.C., et  
al.,  
Appellants.  
(And a Third-Party Action.)

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.

3-10 Mo. No. 92  
In the Matter of Esteban Garcia,  
&c.,  
Appellant,  
v.  
Evelyn C. Heady, et al., &c., et  
al.,  
Respondents.

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

2-10 Mo. No. 143  
Jackie Goldberg,  
Respondent,  
v.  
Stanley J. Zawada,  
Appellant.

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

3 Mo. No. 148  
The People &c. ex rel. Cedric  
Golston,  
Appellant,  
v.  
Dale Artus, &c.,  
Respondent.

Motion for leave to appeal denied.

2-11 Mo. No. 60  
In the Matter of Juliana Gucu,  
Deceased.  
Viorika Anka,  
Respondent;  
John Gucu Roberts,  
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.

3-14 Mo. No. 52  
Richard C. Gulbin,  
Respondent,  
v.  
Cheryl L. Moss-Gulbin,  
Respondent.  
Law Guardian,  
Appellant.

Motion for leave to appeal denied.

4-10 Mo. No. 99  
Ronald J. Harrington and Kay  
Harrington,  
Appellants-Respondents,  
v.  
Marian Gage,  
Respondent-Appellant.

Motions 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.

3-10 Mo. No. 98  
Elisa Jimenez,  
Appellant,  
v.  
Peter Acheson 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.

2-14 Mo. No. 116  
Madeline E. Labate et al.,  
Appellants,  
v.  
Liberty Mutual Insurance Company,  
Respondent.

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

1-13 Mo. No. 103  
Yolanda Magriz,  
Appellant,  
v.  
St. Barnabas Hospital, et al.,  
Respondents,  
W. Hawonat, M.D., et al.,  
Defendants.

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order that pertains to defendants Homer, Glenn and Zambito, denied; motion, insofar as it otherwise seeks leave to appeal from the Appellate Division order, dismissed upon the ground that the remainder of such order does not finally determine the action within the meaning of the Constitution.

1-10 Mo. No. 112  
John F. Nemelka, et al.,  
Appellants,  
v.  
Questor Management Company, LLC,  
et al.,  
Respondents.

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

3-10 Mo. No. 100  
City of New York et al.,  
Appellants,  
v.  
State of New York,  
Respondent.

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

1-10 Mo. No. 80  
Paul C. Nordberg,  
Appellant,  
v.  
South Street Seaport Corporation  
et al.,  
Respondents.

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

1-10 Mo. No. 64  
In the Matter of Alexis Marie P.,  
&c.,  
Michael P.,  
Appellant,  
Administration for Children's  
Services,  
Respondent.

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

1-14 Mo. No. 109  
Patricia Pasqua,  
Respondent,  
v.  
Handels-En Productiemaatschappij  
De Schouw, B.V., &c., et al.,  
Appellants,  
A.I. Friedman, L.P.,  
Defendant.

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 a stay dismissed as academic.

4-10 Mo. No. 235  
In the Matter of Ella Quinn and  
Elaquence Day Care Center,  
Appellants,  
v.  
Commissioner John A. Johnson,  
et al.,  
Respondents.

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



2-10 Mo. No. 93  
The People &c.,  
Respondent,  
v.  
Darrell Smith,  
Appellant.

Motion for leave to appeal denied.

1-13 Mo. No. 84  
Christopher Spierer et al.,  
Appellants,  
v.  
Bloomington's, &c., et al.,  
Respondents,  
Simmons USA, et al.,  
Defendants.

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

1-10 Mo. No. 33  
Claire Van Kipnis,  
Appellant,  
v.  
Gregory Van Kipnis,  
Respondent.

Motion for leave to appeal granted.

1-10 Mo. No. 54  
In the Matter of Frantrae W.  
et al., &c.  
Fred W.,  
Appellant,  
Michelle W.,  
Respondent,  
Commissioner of Administration  
for Children's Services,  
Respondent.

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

1- Mo. No. 81  
In the Matter of Renee W.,  
Respondent,  
v.  
Tracy W.,  
Appellant.

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

4-10 Mo. No. 56  
The People &c. ex rel. John  
Washington,  
Appellant,  
v.  
Thomas Poole, &c.,  
Respondent.

Motion for leave to appeal denied.

2-10 Mo. No. 37  
Gerald M. Weiss,  
Appellant,  
v.  
TD Waterhouse, et al.,  
Respondents.

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

2-10 Mo. No. 113  
Wells Fargo Bank Minnesota,  
National Association, &c.,  
Respondent,  
v.  
Bernice Perez,  
Appellant.

Motion for leave to appeal dismissed as  
untimely (see CPLR 5513[b]; Eaton v.  
State of New York, 76 NY2d 824 [1990]).

2-10 Mo. No. 83  
The People &c.,  
Respondent,  
v.  
Shateek Williams,  
Appellant.

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

4-11 Mo. No. 75  
In the Matter of Kristine Z.,  
Respondent,  
v.  
Anthony C.,  
Appellant.

Motion for leave to appeal denied.