

SEPTEMBER 11, 2008

CASES

1                   No.    197   SSM 29  
Filip Di Sanza,  
                          Appellant,  
                  v.  
The City of New York, et al.,  
                          Defendants,  
Consolidated Edison Company of  
New York,  
                          Respondent.

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

3                   No.    199   SSM 22  
Damon Frutchey, an Infant,  
by Gregg Frutchey, His Parent  
and Guardian, et al.,  
                          Appellants,  
                  v.  
Jacqueline Felicita,  
                          Defendant,  
Michael V. DeLosa, et al.,  
                          Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and the motion by defendants Michael V. DeLosa and Allen's Plumbing, Heating and Air Conditioning, Inc. for summary judgment denied, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1                   No.    196   SSM 28  
Stanley Okun,  
                          Respondent,  
                  v.  
Paul Tanners,  
                          Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, plaintiff's cross motion to restore the action to the calendar denied, defendant's motion to dismiss the action as abandoned dismissed as unnecessary and certified question answered in the negative, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.







2-14 Mo. No. 815  
Justin Firmes,  
Respondent,  
v.  
Chase Manhattan Automotive  
Finance Corp.,  
Appellant,  
Christopher Tietjen et al.,  
Respondents.

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

Mo. No. 820  
The People &c. ex rel. Woodrow  
Flemming,  
Appellant,  
v.  
R. Woods, &c.,  
Respondent.

Motion for reargument denied.

3-10 Mo. No. 819  
In the Matter of Rodney Freeman,  
Appellant,  
v.  
Lucien J. Leclaire Jr., &c.,  
Respondent.

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

4-10 Mo. No. 921  
George Eagan Ginther,  
Appellant,  
v.  
Mary O'Grady Ginther,  
Respondent.

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

2-10 Mo. No. 805  
In the Matter of Lemar H.  
(Anonymous).  
Forestdale, Inc., et al.,  
Respondents,  
Ervin H. (Anonymous), Jr.,  
Appellant.  
(And Another Proceeding.)

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that dismissed appeals from parts of Family Court orders entered on consent, dismissed upon the ground that as to that part of the Appellate Division order, appellant is not a party aggrieved; motion for leave to appeal otherwise denied.

Mo. No. 1072 SSD 54  
In the Matter of Phillip  
Jean-Laurent,  
Appellant,  
v.  
Joseph David, Superintendent,  
Greene Correctional Facility,  
Respondent.

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

1-10 Mo. No. 900  
Erick Johnson, &c., et al.,  
Appellants,  
v.  
St. Barnabas Hospital,  
Defendant,  
Dr. Norma B. Milanese-Roberts  
et al.,  
Respondents.

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

Mo. No. 1060 SSD 52  
In the Matter of Larry Jolley,  
Appellant,  
v.  
Ind-Venture Communications, Inc.,  
et al.,  
Respondents,  
Workers' Compensation Board,  
Respondent.

Appeal, insofar as taken from the Appellate Division order denying appellant's motion for reconsideration or leave to appeal to this Court, dismissed without costs, by the Court sua sponte, upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; appeal, insofar as taken from the Appellate Division order of affirmance, dismissed without costs, by the Court sua sponte, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (see CPLR 5601).

Mo. No. 1076  
Christine Kopsachilis,  
Respondent,  
v.  
130 East 18 Owners Corp. et al.,  
Appellants.

Motion by Riverbay Corporation for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 24 copies filed within seven days.

1-10 Mo. No. 994  
Haiyan Lu, M.D.,  
Appellant,  
v.  
Henry M. Spinelli, M.D., et al.,  
Respondents.

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

3-10 Mo. No. 721  
In the Matter of Monica Mallory,  
Appellant,  
v.  
Brady Jackson Jr.,  
Respondent.  
(And Another Related Proceeding.)

Motion for leave to appeal denied.

2-13 Mo. No. 763  
Vincent Marchese,  
Appellant,  
v.  
Albert Skenderi et al.,  
Respondents.

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

Mo. No. 1061 SSD 53  
Thomas J. Mazerbo,  
Respondent,  
v.  
Mark Murphy,  
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

1-10 Mo. No. 839  
Joseph W. McGarr, &c.,  
Appellant,  
v.  
The Guardian Life Insurance  
Company of America et al.,  
Defendants,  
James Downing,  
Respondent.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]).

2-10 Mo. No. 797  
In the Matter of Lance McGowan,  
Respondent,  
v.  
Fairview Fire District,  
Appellant.

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

2-14 Mo. No. 952  
Gary Melius, et al.,  
Appellants,  
v.  
Wilbur F. Breslin, et al.,  
Respondents,  
et al.,  
Defendants.

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

2-10 Mo. No. 841  
In the Matter of Edwin N.  
&c.,  
Appellant.

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

3-14 Mo. No. 853  
Town of Nassau,  
Respondent,  
v.  
Stephen O. Nalley, &c.,  
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. 683  
Royal Indemnity Company,  
Respondent,

v.

Retail Brand Alliance, Inc., &c.,  
et al.,

Appellants.

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Retail Brand Alliance, Inc.,  
Third-Party Appellant,

v.

Royal & Sun Alliance Insurance,  
PLC,

Third-Party Respondent.

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

2-14 Mo. No. 890  
In the Matter of Andre S.  
(Anonymous),

Appellant.

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

2-13 Mo. No. 794  
Ganesh Sarwan,  
Respondent,

v.

William M. Portnoy,  
Appellant.

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

2-10 Mo. No. 804  
Christopher Selletti,  
Respondent,

v.

Thomas F. Liotti,  
Appellant.

Motion for leave to appeal dismissed upon  
the ground that appellant has failed to  
demonstrate timeliness as required by  
Rules of the Court of Appeals (22 NYCRR)  
500.22[b][2].

Mo. No. 1073 SSD 55  
Syndicated Communication Venture  
Partners IV, LP,  
Appellant,  
v.  
BayStar Capital, L.P., Now Known  
as Northbay Opportunities, L.P.,  
et al.,  
Respondents,  
Steven Lamar, et al.,  
Defendants.  
(And a Third-Party Action.)

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

Mo. No. 1040  
In the Matter of 10 East Realty,  
LLC, et al.,  
Respondents,  
v.  
Incorporated Village of Valley  
Stream, et al.,  
Appellants.

Motion by City of New York for leave to  
file a brief amicus curiae on the appeal  
herein granted and the proposed brief is  
accepted as filed.

Mo. No. 1000  
The People &c.,  
Respondent,  
v.  
Jose Vargas,  
Appellant.

Motion for an extension of the time within  
which to apply for permission to appeal  
pursuant to CPL 460.20 granted and motion  
papers treated as a timely CPL 460.20  
application.

3-10 Mo. No. 918  
The People &c. ex rel. Michael-  
Tony Velez,  
Appellant,  
v.  
Dale Artus, &c.  
Respondent.

Motion for reargument of motion for leave  
to appeal denied.

Mo. No. 920  
In the Matter of Sambasiva Rao  
Venigalla, et al.,  
Respondents,  
v.  
Dattatreyudu Nori et al.,  
Appellants,  
Attorney General of State of New  
York,  
Intervenor.

Motion for reargument denied.

2-10 Mo. No. 722  
In the Matter of Lisa F. Waldman,  
Appellant,  
v.  
Jayson R. Waldman,  
Respondent.

Motion for leave to appeal denied.

2-14 Mo. No. 723  
In the Matter of Jayson R.  
Waldman,  
Respondent,  
v.  
Lisa F. Waldman,  
Appellant.  
(And Other Related Proceedings.)

Motion for leave to appeal denied.