

**State of New York**  
**Court of Appeals**

**Decisions**

October 14, 2021

**CASES**

No. 51

Adar Bays, LLC,  
Respondent,  
v.  
GeneSYS ID, Inc., &c.,  
Appellant.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of the questions by this Court pursuant to section 500.27 of this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, certified questions answered in the affirmative. Opinion by Judge Wilson. Chief Judge DiFiore and Judges Rivera, Fahey, Singas and Cannataro concur. Judge Garcia dissents in part in an opinion.

3                    No. 84 SSM 17

The People &c.,  
Respondent,  
v.  
Reginald Blandford,  
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Garcia, Singas and Cannataro concur. Judge Wilson dissents in an opinion, in which Judges Rivera and Fahey concur.

2                    No. 56

The People &c.,  
Respondent,  
v.  
Eric Ibarguen,  
Appellant.

Order affirmed, in a memorandum. Chief Judge DiFiore and Judges Fahey, Garcia, Singas and Cannataro concur. Judge Wilson dissents in an opinion, in which Judge Rivera concurs.

1                    No. 57  
Racquel Lividini,  
    Respondent,  
    v.  
Harold L. Goldstein et al.,  
    Defendants,  
Rye Ambulatory Surgery Center, L.L.C. et al.,  
    Appellants.

Order insofar as appealed from reversed, with costs, so much of the order of Supreme Court, Bronx County, as granted the motions for change of venue by defendants Rye Ambulatory Surgery Center, L.L.C. and Westmed Medical Group, P.C. reinstated and certified question answered in the negative, in a memorandum.  
Chief Judge DiFiore and Judges Garcia, Singas and Cannataro concur.  
Judge Rivera dissents and votes to affirm and answer the certified question in the affirmative in an opinion, in which Judges Fahey and Wilson concur.

3                    No. 59  
Jennifer White, et al.,  
    Respondents,  
    v.  
Andrew Cuomo, &c., et al.,  
    Appellants.

Reargument ordered for a future Court session.  
Chief Judge DiFiore and Judges Rivera, Fahey, Wilson, Singas and Cannataro concur.  
Judge Garcia took no part.

## MOTIONS

1                    Mo. No. 2021-607  
27 West 72nd Street Note Buyer LLC,  
Respondent,  
v.  
Jack Terzi,  
Appellant.

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

1                    Mo. No. 2021-608  
31 East 28th Street Note Buyer LLC,  
Respondent,  
v.  
Jack Terzi et al.,  
Appellants.

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

                         Mo. No. 2021-777  
800 Grand Concourse Owners, Inc.,  
Respondent,  
v.  
Charlene Thompson,  
Respondent,  
James Pettus,  
Appellant.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion from the orders of the Appellate Term (*see* CPLR 5602 [a] [1]).  
Motion for poor person relief dismissed as academic.

1                    Mo. No. 2021-589  
In the Matter of Talal Bin Sultan Bin Abdul-  
Aziz Al Saud,  
Respondent,  
v.  
The New York and Presbyterian Hospital,  
Appellant.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot.  
Chief Judge DiFiore took no part.

2                    Mo. No. 2021-604  
Panagiotis Armatas,  
    Appellant,  
    v.  
Alan C. Kestenbaum,  
    Defendant,  
Qiana Smith-Williams,  
    Respondent.

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

1                    Mo. No. 2021-599  
The Bank of New York Mellon, &c.,  
    Respondent,  
    v.  
Susan O'Callahan,  
    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.

1                    Mo. No. 2021-632  
Gregory M. Bartlett,  
    Appellant,  
    v.  
Tribeca Lending Corp. et al.,  
    Respondents.

Motion for leave to appeal dismissed as untimely (*see* CPLR 5513 [b]).  
Motion for ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).

2                    Mo. No. 2021-672  
The People &c.,  
    Respondent,  
    v.  
Valeena Bright,  
    Appellant.

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

1                    Mo. No. 2021-669  
In the Matter of Nestor Dominguez,  
    Appellant,  
    v.  
James O'Neill, &c. et al.,  
    Respondents.

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

2 Mo. No. 2021-637  
The People &c.,  
Respondent,  
v.  
Donnell Green,  
Appellant.

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

2 Mo. No. 2021-613  
In the Matter of Amy R. Gurvey,  
Appellant,  
v.  
Rolando T. Acosta, &c.,  
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.  
Chief Judge DiFiore took no part.

1 Mo. No. 2021-652  
The People &c.,  
Respondent,  
v.  
Ishmael Holmes,  
Appellant.

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

4 Mo. No. 2021-628  
The People &c.,  
Respondent,  
v.  
Paul June,  
Appellant.

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

1 Mo. No. 2021-612  
In the Matter of Robert B. Korn, &c.  
  
Robert B. Korn,  
Appellant,  
v.  
Edward D. Korn, &c.,  
Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2021-664  
In the Matter of Danny Leopold,  
                         Respondent,  
                         v.  
Michael Dabakarov et al.,  
                         Appellants.

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                    Mo. No. 2021-615  
In the Matter of the Claim of Colin Lowry,  
                         Respondent.  
Uber Technologies, Inc.,  
                         Appellant.  
Commissioner of Labor,  
                         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.

2                    Mo. No. 2021-646  
Nella Manko,  
                         Appellant,  
                         v.  
Lenox Hill Hospital,  
                         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 poor person relief dismissed as academic.  
Chief Judge DiFiore took no part.

2                    Mo. No. 2021-618  
Kevin Martin,  
                         Appellant,  
et al.,  
                         Plaintiff,  
                         v.  
Total Realty Associate, Inc.,  
                         Respondent.

Motion for reargument denied.  
Judges Singas and Cannataro took no part.

4                    Mo. No. 2021-627  
The People &c.,  
                         Respondent,  
                         v.  
Richard G. Maus, II,  
                         Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2021-621  
The McCormack Family Charitable  
Foundation, et al.,  
          Appellants,  
          v.  
Fidelity Brokerage Services, LLC et al.,  
          Respondents,  
et al.,  
          Defendants.

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

2                    Mo. No. 2021-598  
Mew Equity, LLC, et al.,  
          Appellants,  
          v.  
Sutton Land Services, LLC, &c., 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.

3                    Mo. No. 2021-585  
MLB Construction Services, LLC,  
          Appellant,  
          v.  
Dormitory Authority of the State of New  
York,  
          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.

3                    Mo. No. 2021-591  
MLB Construction Services, LLC,  
          Appellant,  
          v.  
Dormitory Authority of the State of New  
York,  
          Respondent.

Motion by Associated General Contractors of New York State, LLC, et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

2                    Mo. No. 2021-492  
Myrtle 684, LLC,  
    Respondent,  
    v.  
Samuel Tauber,  
    Respondent,  
Investors Bank,  
    Appellant,  
et al.,  
    Defendants.

Motion for leave to appeal denied.

2                    Mo. No. 2021-493  
Myrtle 684, LLC,  
    Appellant,  
    v.  
Samuel Tauber,  
    Respondent,  
Investors Bank,  
    Respondent,  
et al.,  
    Defendants.

Motion for leave to appeal denied.

2                    Mo. No. 2021-592  
In the Matter of Nassau BOCES Educational  
Administrators Association,  
    Appellant,  
    v.  
Board of Cooperative Educational Services of  
Nassau County et al.,  
    Respondents.

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

3                    Mo. No. 2021-510  
In the Matter of State of New York,  
    Appellant,  
    v.  
New York State Public Employment  
Relations Board, et al.,  
    Respondents.

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



1 Mo. No. 2021-545  
Sage Systems, Inc.,  
Respondent,  
v.  
Michael Liss, &c.,  
Appellant.

Motion for leave to appeal granted.

4 Mo. No. 2021-617  
Estate of Sharpsteen,  
Respondent,  
v.  
Daniel J. Wik, &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.  
Motion for ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).

1 Mo. No. 2021-624  
Daniel Shatz, &c.,  
Respondent,  
v.  
Douglas Chertok et al.,  
Appellants,  
Vast Ventures V LP et al.,  
Defendants,  
Vast Ventures VI LLC,  
Nominal Defendant.

Motion for reargument of motion for leave to appeal denied.  
Judges Singas and Cannataro took no part.

2 Mo. No. 2021-623  
Shefa Trading III, LLC,  
Appellant,  
v.  
E.N.Y. Plaza, LLC,  
Respondent.

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

2 Mo. No. 2021-600  
The People &c.,  
Respondent,  
v.  
Anthony Spagnuolo,  
Appellant.

Motion for leave to appeal denied.