

June 10, 2014

CASES

3 No. 98
The People &c.,
 Respondent,
 v.
George F. Fazio,
 Appellant.

Order affirmed, without costs.
Opinion by Judge Abdus-Salaam.
Judges Graffeo, Read, Pigott and Rivera concur.
Judge Smith dissents in an opinion in which Chief
Judge Lippman concurs.

4 No. 97
The People &c.,
 Respondent,
 v.
Neil Gillotti,
 Appellant.

Order reversed, without costs, and case remitted to
the Appellate Division, Fourth Department, for
further proceedings in accordance with the opinion
herein.
Opinion by Judge Abdus-Salaam.
Judges Graffeo, Read, Pigott and Rivera concur.
Judge Smith dissents in part in an opinion in which
Chief Judge Lippman concurs.

1 No. 110
KeySpan Gas East Corporation,
 Respondent,
 v.
Munich Reinsurance America, Inc. et al.,
 Appellants.

Order, insofar as appealed from, reversed, with costs,
case remitted to the Appellate Division, First
Department, for further proceedings in accordance
with the opinion herein, and certified question
answered in the negative.
Opinion by Judge Abdus-Salaam.
Judges Graffeo, Read, Smith and Pigott concur.
Chief Judge Lippman and Judge Rivera took no part.

1 No. 109
Morpheus Capital Advisors LLC,
 Respondent,
 v.
UBS AG,
 Defendant,
UBS Real Estate Securities, Inc.,
 Appellant.

Order reversed, with costs, motion of defendant UBS Real Estate Securities to dismiss the complaint as against it granted, and certified question answered in the negative.
Opinion by Chief Judge Lippman.
Judges Graffeo, Read and Rivera concur.
Judge Pigott dissents in an opinion.
Judges Smith and Abdus-Salaam took no part.

1 No. 99
In the Matter of New York State Commission
on Judicial Conduct,
 Respondent,
 v.
Seth Rubenstein,
 Appellant.
(And Another Action.)

Order reversed, without costs, and appellant's application denied.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Abdus-Salaam concur.

 No. 112
Quadrant Structured Products Co., Ltd., &c.,
 Appellant,
 v.
Vincent Vertin, et al.,
 Respondents.

Following certification of questions by the Supreme Court of the State of Delaware 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 accordance with the opinion herein.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Abdus-Salaam concur.

2 No. 117
The People &c.,
 Appellant,
 v.
Anner Rivera,
 Respondent.

Order affirmed.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Pigott and Rivera
concur.
Judge Abdus-Salaam dissents and votes to reverse in
an opinion in which Judges Read and Smith concur.

1 No. 175 SSM 11
Guillermo Robles,
 Appellant,
 v.
New York City Housing Authority,
 Respondent.

On review of submissions pursuant to section 500.11
of the Rules, order reversed, with costs, and
defendant's motion for summary judgment dismissing
the complaint denied. The Appellate Division
improperly concluded that defendant was entitled to
summary judgment, as defendant failed to show that
it was prejudiced by any defect in plaintiff's notice of
claim (see generally General Municipal Law § 50-e
[6]), and triable issues of fact remain.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott, Rivera and Abdus-Salaam concur.

2 No. 59
In the Matter of Working Families Party,
 Appellant,
 v.
Fern A. Fisher, &c., et al.,
 Respondents.

Judgment affirmed, with costs.
Opinion Per Curiam.
Judges Graffeo, Read, Smith, Pigott, Rivera and
Abdus-Salaam concur.
Chief Judge Lippman took no part.

MOTIONS

1 Mo. No. 2014-406
Anita L. Apt, et al.,
 Appellants,
 v.
Morgan Stanley DW, Inc., et al.,
 Respondents,
et al.,
 Defendant.

Motion for leave to appeal granted.

2 Mo. No. 2014-398
Dennis Ardi et al.,
 Appellants,
 v.
John S. Martin et al.,
 Respondents.

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

3 Mo. No. 2014-364
John L. Bell, &c.,
 Appellant,
 v.
David R. White 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.

4 Mo. No. 2014-373
The People &c.,
 Respondent,
 v.
Requiere Bogan,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-391
In the Matter of Robert Butler
et al.,
 Appellants,
 v.
City of Rye Planning Commission, 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.

2 Mo. No. 2014-392
Robert Butler et al.,
 Appellants,
 v.
Daniel Mathisson et al.,
 Respondents.

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

4 Mo. No. 2014-366
In the Matter of Robert Cardew,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

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

1 Mo. No. 2014-335
In the Matter of Colorado Energy
Management, LLC,
 Respondent,
Centennial Energy Holdings, Inc.,
 Intervenor-Respondent,
 v.
Lea Power Partners, LLC,
 Appellant.

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

3 Mo. No. 2014-334
In the Matter of James D. Cook,
 Appellant,
 v.
East Greenbush Police Department et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-383
In the Matter of Paul Davila,
 Appellant,
 v.
Albert Prack, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2014-371
Salvatore DeForte, et al.,
 Appellants,
 v.
Greenwood Cemetery,
 Respondent.

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

2 Mo. No. 2014-369
Miriam Delgado,
 Appellant,
 v.
Markwort Sporting Goods Company, et al.,
 Respondents.
(And a Third-Party Action.)

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion from the order of the Appellate Term (see CPLR 5602[a]).

2 SSD 39
Colleen Derby,
 Appellant,
 v.
Fabian Bitan,
 Respondent.

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

2 Mo. No. 2014-378
David DiCariano,
Appellant,
v.
County of Rockland, et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2014-394
Emery Celli Brinckerhoff & Abady, LLP,
Respondent,
v.
Michael Rose,
Appellant.

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

3 Mo. No. 2014-387
Vincent Esposito et al.,
Appellants,
v.
State of New York,
Respondent.

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

3 SSD 36
In the Matter of the Foreclosure of Tax Liens
by City of Hudson.

First Church of God in Christ, Inc.,
Appellant;
City of Hudson,
Respondent.

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

3 SSD 37
In the Matter of Michael A. Goldstein et al.,
Appellants,
v.
Tax Appeals Tribunal of the State of New
York et al.,
Respondents.

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

Mo. No. 2014-360
Michael Kuney,
Appellant,
v.
Angie Christian et al.,
Respondents.

Motion for leave to appeal dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain it (see NY Const, art VI, §3; CPLR 5602).

1 Mo. No. 2014-397
LFR Collections LLC, &c.,
Respondent,
v.
The Matthews Law Firm, et al.,
Appellants.

Motion for leave to appeal denied.

3 SSD 38
In the Matter of James McNulty
et al.,
Appellants,
v.
Tax Appeals Tribunal of the State of New
York et al.,
Respondents.

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

3 Mo. No. 2014-390
The People &c. ex rel. Scott Myers,
Appellant,
v.
Michael Spitz,
Respondent.

Motion for reargument of motion for leave to appeal
denied.
Judge Abdus-Salaam took no part.

2 Mo. No. 2014-388
John Otto,
Appellant,
v.
Puneet Dureja, et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2014-393
Edwin Pope, et al.,
Plaintiffs,
v.
Safety and Quality Plus, Inc.,
Respondent,
RC Dolner, LLC,
Appellant,
et al.,
Defendant.
(And a Third-Party Action.)

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

2 Mo. No. 2014-370
Ruth Popovits,
Appellant,
v.
New York City Housing Authority,
Respondent.

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

4 Mo. No. 2014-374
The People &c.,
Respondent,
v.
Bryon K. Sells,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2014-355
In the Matter of P. David Soares, &c.,
Respondent,
v.
William A. Carter, &c.,
Appellant,
Colin Donnaruma et al.,
Respondents.

Motion for leave to appeal granted.

4 Mo. No. 2014-361
The People &c.,
Respondent,
v.
Robert Sylar,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2014-362
Town Sports International, LLC,
Respondent,
v.
Ajilon Solutions, &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 (see Burke v Crosson, 85 NY2d 10, 16-17 [1995]).

1 Mo. No. 2014-377
David Trolman,
Appellant,
v.
Trolman, Glaser & Lichtman, P.C., et al.,
Respondents.

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

1 Mo. No. 2014-399
The People &c.,
Respondent,
v.
Rafael Vega, &c.,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-368
The People &c.,
Respondent,
v.
Gilbert Violate,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2014-363
In the Matter of Curtis Walker,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

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

1 Mo. No. 2014-375
In the Matter of Vincent Warren,
Appellant,
v.
Hon. John N. Byrne, et al.,
Respondents.
Robert T. Johnson, &c.,
Nonparty-Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-256
The People &c.,
Respondent,
v.
William Weihrich,
Appellant.

Motion for leave to appeal denied.