

October 18, 2018

CASES

3 No. 102
In the Matter of Benjamin Haug,
 Respondent,
 v.
State University of New York at Potsdam, et
al.,
 Appellants.

Order reversed, with costs, and matter remitted to the Appellate Division, Third Department, for consideration of issues raised but not determined on the appeal to that court, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Garcia, Wilson and Feinman concur. Judge Fahey dissents and votes to affirm in an opinion.

4 No. 101
International Union of Painters & Allied
Trades, District Council No. 4, &c., et al.,
 Respondents,
 v.
New York State Department of Labor, et al.,
 Appellants.

Order reversed, with costs, judgment of Supreme Court, Erie County, reinstated and certified question answered in the negative. Opinion by Judge Fahey. Chief Judge DiFiore and Judges Rivera, Stein, Wilson and Feinman concur. Judge Garcia dissents and votes to affirm in an opinion.

1 No. 95
In the Matter of Lacey L., &c.

Stephanie L.,
 Appellant;
Administration for Children's Services,
 Respondent,
Dekodia L.,
 Respondent.

Order affirmed, without costs, and certified question answered in the affirmative. Opinion by Judge Wilson. Chief Judge DiFiore and Judges Stein, Fahey, Garcia and Feinman concur. Judge Rivera dissents in an opinion.

3 No. 93
In the Matter of LeadingAge New York, Inc.,
et al.,
 Appellants-Respondents,
 v.
Nirav Shah, as Commissioner of Health, et al.,
 Respondents-Appellants.
(Proceeding No. 1.)

In the Matter of Coalition of New York State
Public Health Plans, et al.,
 Appellants-Respondents,
 v.
New York State Department of Health, et al.,
 Respondents-Appellants.
(Proceeding No. 2.)

 No. 145
Pangea Capital Management, LLC,
 Appellant,
 v.
John R. Lakian,
 Respondent,
Andrea Lakian,
 Intervenor-Respondent.

Order affirmed, without costs.
Opinion by Chief Judge DiFiore.
Judges Stein, Fahey and Feinman concur.
Judge Garcia dissents in part and votes to modify in favor of petitioners in accordance with an opinion.
Judge Wilson dissents in part and votes to modify in favor of respondents in accordance with an opinion.
Judge Rivera dissents in part and votes to modify in favor of respondents for the reasons stated in Parts I, III and IV of Judge Wilson's opinion.

Certification of questions by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

MOTIONS

2 Mo. No. 2018-983
Lilya Andryeyeva, &c., et al.,
 Respondents,
 v.
New York Health Care, Inc., &c., et al.,
 Appellants.

Motion by Home Care Association of New York State, Inc. et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. One copy the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.

1 Mo. No. 2018-776
In the Matter of Baychester Retail III LLC,
 Appellant,
 v.
Margery Perlmutter, et al.,
 Respondents.

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

4 Mo. No. 2018-980
The People &c.,
 Respondent,
 v.
Ramel Bell-Scott,
 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.

1 Mo. No. 2018-990
Daniel Collazo, et al.,
 Appellants,
 v.
Netherland Property Assets LLC et al.,
 Respondents.

Motion by Rent Stabilization Association of NYC, Inc. et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

1 Mo. No. 2018-995
The People &c.,
Respondent,
v.
Tyrell Cook,
Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, NY 10005 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2018-792
In the Matter of Nathan Davidovich, et al.,
Respondents,
v.
Cheryl Lynne Hoppenstein, et al.,
Appellants.

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

4 Mo. No. 2018-764
In the Matter of Echo Westley Dixon,
Appellant,
v.
Governor Andrew M. Cuomo, 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.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2018-837
In the Matter of Echo Westley Dixon,
Appellant,
v.
Governor Andrew M. Cuomo, 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.

3 Mo. No. 2018-778
In the Matter of the Arbitration between
Moshe Friedman,
Respondent,
v.
Salmen Loksen, &c.,
Appellant.

Motion for reargument of motion for leave to appeal denied.

4 Mo. No. 2018-767
Jonathan R. Gustke,
Appellant,
v.
Jonathan T. Nickerson, et al.,
Respondents.

Motion, insofar as it seeks leave to appeal as against defendants Brian H. Foley and Jonathan T. Nickerson, denied; motion for leave to appeal otherwise 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. 2018-1008
The People &c.,
Appellant,
v.
Brian Hakes,
Respondent.

Motion by New York Civil Liberties Union 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, an original and nine copies filed, and the brief submitted in digital format within seven days.

4 Mo. No. 2018-777
In the Matter of Leroy Johnson,
Appellant,
v.
Stewart Eckert, &c.,
Respondent.

Motion for reconsideration of this Court's June 26, 2018 dismissal order denied.
Motion for poor person relief dismissed as academic.

1 Mo. No. 2018-1010
John Kuzmich, et al.,
Appellants,
v.
50 Murray Street Acquisition LLC,
Respondent.

Motion by Metropolitan Council on Housing 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, an original and nine copies filed, and the brief submitted in digital format within seven days.

2 Mo. No. 2018-843
In the Matter of the State of New York,
 Respondent,
 v.
Roderick L.,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2018-782
Susan D. Mongiello,
 Respondent,
 v.
David J. Mongiello,
 Appellant.

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

1 Mo. No. 2018-1001
In the Matter of New York Civil Liberties
Union,
 Appellant,
 v.
New York City Police Department, et al.,
 Respondents.

Motion by Patrolmen's Benevolent Association of the City of New York, Inc. for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

3 Mo. No. 2018-756
In the Matter of the Claim of Sandra L.
O'Donnell,
 Claimant,
 v.
Erie County et al.,
 Appellants.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2018-647
Philip Shawe,
Appellant,
v.
Elizabeth Elting, et al.,
Respondents.

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

1 Mo. No. 2018-791
Shirley Shawe, &c.,
Appellant,
v.
Kidron Corporate Advisors LLC, et al.,
Respondents,
et al.,
Defendants,
Transperfect Global, Inc. et al.,
Nominal Parties.

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

1 Mo. No. 2018-805
Shirley Shawe, &c.,
Appellant,
v.
Cushman & Wakefield, et al.,
Respondents,
Transperfect Global, Inc. et al.,
Nominal Parties.

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

4 Mo. No. 2018-996
The People &c.,
Respondent,
v.
Samuel J. Smith,
Appellant.

Motion for assignment of counsel granted and Timothy P. Donaher, Esq., Monroe County Public Defender, 10 N. Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2018-1000
In the Matter of T-Mobile Northeast, LLC,
Appellant,
v.
Anthony V. DeBellis, &c., et al.,
Respondents,
et al.,
Respondents/Defendants.

Motion by CTIA - The Wireless Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

2 Mo. No. 2018-1002
In the Matter of T-Mobile Northeast, LLC,
Appellant,
v.
Anthony V. DeBellis, &c., et al.,
Respondents,
et al.,
Respondents/Defendants.

Motion by Broadband Tax Institute for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.

2 Mo. No. 2018-1003
In the Matter of T-Mobile Northeast, LLC,
Appellant,
v.
Anthony V. DeBellis, &c., et al.,
Respondents,
et al.,
Respondents/Defendants.

Motion by New York State Conference of Mayors and Municipal Officials et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and the brief submitted in digital format within seven days.

1 Mo. No. 2018-962
Tribeca Lending Corporation,
Respondent,
v.
Gregory M. Bartlett, &c.,
Appellant,
NYS Department of Taxation et al.,
Defendants.

On the Court's own motion, appeal dismissed, without costs, upon the ground that it does not lie (see CPLR 5601).
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).