

June 11, 2019

**CASES**

2                    No. 39  
Andrew Carothers, M.D., P.C., &c.,  
    Appellant,  
    v.  
Progressive Insurance Company,  
    Respondent.

Order affirmed, with costs, and certified question not answered as unnecessary.  
Opinion by Judge Fahey.  
Chief Judge DiFiore and Judges Rivera, Stein, Garcia, Wilson and Feinman concur.

2                    No. 38  
The People &c.,  
    Appellant,  
    v.  
John Giuca,  
    Respondent.

Order reversed and order of Supreme Court, Kings County, reinstated.  
Opinion by Chief Judge DiFiore.  
Judges Stein, Garcia, Wilson and Feinman concur.  
Judge Rivera dissents and votes to affirm in an opinion.  
Judge Fahey took no part.

1                    No. 37  
Nadkos, Inc.,  
    Appellant,  
    v.  
Preferred Contractors Insurance Company  
Risk Retention Group LLC,  
    Respondent,  
et al.,  
    Defendant.

Order affirmed, with costs.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Stein, Fahey, Garcia and Feinman concur.  
Judge Wilson dissents in an opinion.

4                    No. 36  
In the Matter of the Eighth Judicial District  
Asbestos Litigation.

Donald J. Terwilliger, &c.,  
Appellant,  
v.  
Beazer East, Inc., &c., et al.,  
Defendants,  
Honeywell International, Inc., &c.,  
Respondent.

Order reversed, with costs, and motion of defendant  
Honeywell International, Inc., successor in interest to  
the Wilputte Coke Oven Division of Allied Chemical  
Corporation, for summary judgment dismissing the  
complaint against it denied.

Opinion by Judge Feinman.

Judges Rivera, Fahey and Wilson concur.

Judge Stein dissents and votes to affirm in an opinion  
in which Chief Judge DiFiore concurs.

Judge Garcia took no part.

## MOTIONS

1                    Mo. No. 2019-328  
In the Matter of 333 East 49th Partnership,  
LP, et al.,  
    Appellants-Respondents,  
    v.  
New York State Division of Housing and  
Community Renewal,  
    Respondent-Appellant.

Motions for leave to appeal denied.

1                    Mo. No. 2019-306  
The People &c.,  
    Respondent,  
    v.  
Jonny Anjudar,  
    Appellant.

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

2                    Mo. No. 2019-211  
Anna Aybar, et al.,  
    Respondents,  
    v.  
Jose A. Aybar, Jr., et al.,  
    Defendants,  
Ford Motor Company et al.,  
    Respondents;  
U.S. Tires and Wheels of Queens, LLC,  
    Nonparty-Appellant.

Motion for leave to appeal dismissed upon the  
ground that movant is not a party aggrieved (see  
CPLR 5511).

2                    Mo. No. 2019-312  
Kenneth Breslin, &c. et al.,  
    Appellants,  
    v.  
Wendy Frankel, et al.,  
    Respondents.

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

1                    Mo. No. 2019-316  
Estate of Alexander Calderwood, &c.,  
    Appellant,  
    v.  
ACE Group International LLC, 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                    Mo. No. 2019-282  
The People &c.,  
    Respondent,  
    v.  
Andre Cash,  
    Appellant.

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

1                    Mo. No. 2019-337  
Jin Ming Chen,  
    Appellant,  
    v.  
Insurance Company of the State of  
Pennsylvania,  
    Respondent.

Motion for leave to appeal granted.

1                    Mo. No. 2019-295  
Michael Chenkin,  
    Appellant,  
    v.  
Public Administrator of New York County,  
    Respondent.

Motion for reargument of motion for leave to appeal denied.

1                    Mo. No. 2019-308  
In the Matter of Leslie Clark et al.,  
    Appellants,  
    v.  
New York State Liquor Authority,  
    Respondent,  
et al.,  
    Respondent.

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

4                    Mo. No. 2019-322  
The People &c.,  
    Respondent,  
    v.  
Richard A. Davis,  
    Appellant.

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

2                    Mo. No. 2019-265  
The People &c.,  
    Respondent,  
    v.  
Felix Diaz,  
    Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2019-331  
The People &c.,  
    Respondent,  
    v.  
Zackary S. Dressner,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2019-304  
Fairchild Corporation, 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                    Mo. No. 2019-319  
Family & Educational Consultants, LLC, &c.,  
    Appellant,  
    v.  
New York State Insurance Fund,  
    Respondent.

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

4 Mo. No. 2019-283  
The People &c.,  
Respondent,  
v.  
Howard Griffith,  
Appellant.

Motion for reconsideration of this Court's February 21, 2019 dismissal order denied.

1 Mo. No. 2019-296  
Rosemarie A. Herman, &c., et al.,  
Appellants,  
v.  
36 Gramercy Park Realty Associates, LLC, et al.,  
Respondents,  
et al.,  
Defendants.

Motion for leave to appeal dismissed upon the ground that the Appellate Division order sought to be appealed from does not finally determine the actions within the meaning of the Constitution and the judgments entered pursuant to the parties' conditional stipulation do not finally determine the actions for purposes of this Court's jurisdiction.

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36 Gramercy Park Realty Associates, LLC, et al.,  
Respondents,  
v.  
Rosemarie A. Herman, &c.,  
Appellant.

1 Mo. No. 2019-292  
The People &c.,  
Respondent,  
v.  
Shafik Hirji,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2019-334  
Edlon Housen,  
Appellant,  
v.  
Boston Market Corporation, &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. 2019-323  
Don R. Howell,  
Appellant,  
v.  
State of New York,  
Respondent.

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

3 Mo. No. 2019-270  
In the Matter of Eddie Hutchinson,  
Appellant,  
v.  
Christopher Miller, &c.,  
Respondent.

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

3 Mo. No. 2019-238  
Raul Illescas,  
Appellant,  
v.  
Adam Wilkins,  
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.  
Motion for poor person relief dismissed as academic.

2 Mo. No. 2019-291  
In the Matter of William Imandt, &c., et al.,  
Appellants,  
v.  
New York State Unified Court System et al.,  
Respondents.

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

2 Mo. No. 2019-333  
Jerry L. Johnson,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for reargument of motion for leave to appeal denied.

2                    Mo. No. 2019-340  
JPMorgan Chase Bank, National Association,  
Respondent,  
v.  
Ross R. Caliguri, &c.,  
Appellant,  
et al.,  
Defendants.

Motion, deemed to be seeking leave to appeal (see CPLR 5512) from the February 2019 Supreme Court judgment of foreclosure and sale pursuant to CPLR 5602(a)(1)(ii) to review the January 2019 Appellate Division order, insofar as it seeks review of so much of the Appellate Division order as affirmed the denial of the motion for reassignment, dismissed upon the ground that such portion of the order of the Appellate Division does not "necessarily affect" the judgment sought to be appealed from within the meaning of CPLR 5602(a)(1)(ii); motion for leave to appeal otherwise granted.

2                    Mo. No. 2019-445  
JPMorgan Chase Bank, National Association,  
Respondent,  
v.  
Ross R. Caliguri, &c.,  
Appellant,  
et al.,  
Defendants.

Motion for a stay granted.

2                    Mo. No. 2019-229  
The People &c.,  
Respondent,  
v.  
Todd Lumpkin, &c.,  
Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2019-317  
In the Matter of Ilan Miller,  
Appellant,  
v.  
Elrac, LLC,  
Respondent.

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

3                    Mo. No. 2019-278  
Susan E. Miszko,  
    Respondent,  
    v.  
Michael Miszko Jr.,  
    Appellant.

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

1                    Mo. No. 2019-227  
NWM Capital, LLC,  
    Respondent,  
    v.  
Mark Scharfman et al.,  
    Defendants,  
Fort I Group, L.P., et al.,  
    Appellants,  
et al.,  
    Defendants.

Motion, insofar as defendants Fort I Group, L.P., et al. seek leave to appeal from so much of the Appellate Division order as affirmed the January 25, 2018 Supreme Court order denying their motion for attorneys' fees, dismissed upon the ground that such portion of the Appellate Division order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise dismissed upon the ground that defendants Fort I Group, L.P., et al. are not parties aggrieved by the remainder of the Appellate Division order (see CPLR 5511).

2                    Mo. No. 2019-353  
In the Matter of Quaiza S.P.

Motion for leave to appeal denied.

Westchester County Department of Social  
Services,  
    Respondent;  
Sean S.,  
    Appellant.  
(And Another Proceeding.)

1                    Mo. No. 2019-289  
In the Matter of James Pettus,  
    Appellant,  
et al.,  
    Petitioner,  
    v.  
Board of Directors, et al.,  
    Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved. Motion for poor person relief dismissed as academic.

2                    Mo. No. 2019-290  
Prompt Mortgage Providers of North  
America, LLC et al.,  
                    Respondents,  
                    v.  
Simon Zarour,  
                    Appellant,  
et al.,  
                    Defendants.

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

4                    Mo. No. 2019-330  
Remet Corporation,  
                    Appellant,  
                    v.  
Estate of James R. Pyne, &c.,  
et al.,  
                    Respondents,  
et al.,  
                    Defendant.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.

1                    Mo. No. 2019-314  
Risk Control Associates Insurance Group,  
                    Appellant,  
                    v.  
Maloof, Lebowitz, Connahan & Oleske, P.C.,  
et al.,  
                    Respondents.

Motion for reargument of motion for leave to appeal denied.  
Judge Feinman took no part.

1                    Mo. No. 2019-252  
Robert B. Jetter, M.D., PLLC,  
                    Appellant,  
et al.,  
                    Plaintiff,  
                    v.  
737 Park Avenue Acquisition LLC,  
                    Respondent,  
et al.,  
                    Defendants.

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

2 Mo. No. 2019-305  
The People &c.,  
Respondent,  
v.  
Morales Saintilus,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2019-279  
The People &c.,  
Respondent,  
v.  
Robert Darnell Sawyer,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2019-298  
Christopher J. Sculti, et al.,  
Respondents,  
v.  
Ben Finley, et al.,  
Defendants,  
Westchester County, 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 action within the meaning of the Constitution.  
Chief Judge DiFiore took no part.

1 Mo. No. 2019-327  
Philip R. Shawe,  
Appellant,  
v.  
Elizabeth Elting,  
Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.  
Motion for leave to appeal denied.

2 Mo. No. 2019-299  
Patrick Skuret,  
Appellant,  
v.  
Yoyo Cab Corp., et al.,  
Respondents.

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

3 Mo. No. 2019-329  
In the Matter of Injah Unique Tafari,  
Appellant,  
v.  
Andrew Michael Cuomo, &c., et al.,  
Respondents.

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

1 Mo. No. 2019-309  
John Tozzi et al.,  
Appellants,  
v.  
Carola Mack et al.,  
Respondents.

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

4 Mo. No. 2019-300  
The People &c.,  
Respondent,  
v.  
Bruce C. Wadsworth,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2019-272  
Wells Fargo Bank, NA, &c.,  
Appellant,  
v.  
Joseph N. Barrella, &c., et al.,  
Respondents,  
et al.,  
Defendants.

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

3 Mo. No. 2019-301  
In the Matter of Equarn White,  
Appellant,  
v.  
Anthony J. Annucci, &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.

3                    Mo. No. 2019-364  
Nicholas Wiley,  
    Appellant,  
    v.  
Marjam Supply Co., Inc., et al.,  
    Respondents,  
et al.,  
    Defendants.

Motion for leave to appeal denied.