

June 07, 2011

**CASES**

4	No. 177 SSM 17	
James V. Aquavella, &c., et al.,	Appellants,	
	v.	
Ralph S. Viola, &c.,	Respondent.	On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.
1	No. 92	
Rachel L. Arfa, et al.,	Appellants,	
	v.	
Gadi Zamir, et al.,	Respondents,	Order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.
Eli Mor, et al.,	Defendants.	
(And Other Actions.)		
4	No. 95	
The People &c.,	Respondent,	
	v.	
Jazzmone Brown,	Appellant.	Order affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.
1	No. 93	
Centro Empresarial Cempresa S.A.,	Appellants,	
et al.,	v.	
America Movil, S.A.B. de C.V., et	Respondents.	Order affirmed, with costs. Opinion by Judge Ciparick. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Jones concur.
al.,		

2                   No. 112  
The People &c.,  
                    Respondent,  
                    v.  
Dean Pacquette,  
                    Appellant.

Order affirmed.  
Opinion by Judge Read.  
Judges Ciparick, Graffeo, Smith and  
Pigott concur.  
Chief Judge Lippman dissents in an  
opinion in which Judge Jones concurs.

1                   No. 181   SSM 21  
Christopher Scott,  
                    Appellant,  
                    v.  
Rockaway Pratt, LLC,  
                    Respondent.

On review of submissions pursuant to  
section 500.11 of the Rules, order  
reversed, with costs, order of Supreme  
Court, New York County, reinstated, and  
certified question answered in the  
negative. Supreme Court properly held  
that calculation of the amount of rent  
overcharge should be made by reference  
to a 1982 rent reduction order, which  
remained in effect during the four-year  
limitations period (see Matter of  
Cintron v Calogero, 15 NY3d 347  
[2010]).  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

2                   No. 116  
The People &c.,  
                    Respondent,  
                    v.  
Thomas Sirico,  
                    Appellant.

Order affirmed, in a memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith and  
Pigott concur.  
Judge Jones dissents and votes to  
reverse in an opinion.

1                   No. 108  
The People &c.,  
                    Respondent,  
                    v.  
Owen Steward,  
                    Appellant.

Order reversed and a new trial ordered.  
Opinion by Judge Graffeo.  
Chief Judge Lippman and Judges  
Ciparick, Pigott and Jones concur.  
Judge Smith dissents and votes to  
affirm in an opinion in which Judge  
Read concurs.

**MOTIONS**

1                    Mo. No. 2011-344  
385 Third Avenue Associates,  
L.P., et al.,  
                    Appellants,  
                    v.  
Metropolitan Metals Corp.,  
                    Appellant,  
The Burlington Insurance Company,  
                    Respondent.

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

2                    Mo. No. 2011-386  
Melanie Alvarez, et al.,  
                    Appellants,  
                    v.  
John Amicucci, et al.,  
                    Respondents.

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

2                    Mo. No. 2011-394  
In the Matter of Birch Tree  
Partners, LLC,  
                    Appellant,  
                    v.  
Town of East Hampton, et al.,  
                    Respondents.

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

4                    Mo. No. 2011-368  
In the Matter of Donna Black,  
                    Appellant,  
                    v.  
John Paul Watson,  
                    Respondent.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed so much of Family Court's order as adjudged that respondent did not willfully violate a prior order of the court, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2                    Mo. No. 2011-418  
Cheryl Bladt,  
                         Respondent,  
                         v.  
Willard Bladt,  
                         Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2011-417  
The People &c.,  
                         Respondent,  
                         v.  
Anthony Carleo,  
                         Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2011-420  
In the Matter of Echostar  
Satellite Corporation,  
                         Appellant,  
                         v.  
Tax Appeals Tribunal of the State  
of New York et al.,  
                         Respondents.

Motion for leave to appeal granted.

1                    Mo. No. 2011-383  
In the Matter of Donald Faggen,  
&c.

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

Celia Faggen, Deceased.

Donald Faggen,  
                         Appellant,  
                         v.  
JP Morgan Chase, N.A. et al.,  
                         Respondents.

4                    Mo. No. 2011-385  
In the Matter of the State of New  
York,  
                         Respondent,  
                         v.  
Daniel Gierszewski, &c.,  
                         Appellant.

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

1                   Mo. No. 2011-414  
Glencord Building Corp. et al.,  
                    Respondents,  
                    v.  
Elena Strujan,  
                    Appellant,  
et al.,  
                    Defendant.

Motion for leave to appeal dismissed  
upon the ground that it does not lie  
(see CPLR 5602).  
Motion for poor person relief  
dismissed as academic.

4                   Mo. No. 2011-400  
In the Matter of New York State  
Commission of Correction,  
                    Respondent,  
                    v.  
Timothy B. Howard, &c.,  
                    Appellant.

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

1                   Mo. No. 2011-408  
OFSI Fund II, LLC, et al.,  
                    Appellants,  
                    v.  
Canadian Imperial Bank of  
Commerce, &c. et al.,  
                    Respondents,  
et al.,  
                    Defendants.

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

1                   Mo. No. 2011-439  
In the Matter of Eyal Ovadia,  
et al.,  
                    Appellants,  
                    v.  
Office of the Industrial Board of  
Appeals, et al.,  
                    Respondents.

Motion for leave to appeal granted.

4                   Mo. No. 2011-365  
In the Matter of Nicole J.R.,  
                    Appellant,  
                    v.  
Jason M.R.,  
                    Respondent.

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

3                   Mo. No. 2011-412  
In the Matter of Rafael  
Rodriguez, &c.,  
                  Appellant,  
          v.  
Tax Appeals Tribunal of the State  
of New York, et al.,  
                  Respondents.

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

1                   Mo. No. 2011-406  
In the Matter of Cleopatra  
Rosioreanu,  
                  Appellant,  
          v.  
New York City Office of  
Collective Bargaining,  
                  Respondent.

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

1                   Mo. No. 2011-426  
Schulte Roth & Zabel, LLP,  
                  Respondent,  
          v.  
Philip J. Kassover,  
                  Appellant.

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

2                   Mo. No. 2011-397  
Tara Snolis, et al.,  
                  Appellants,  
          v.  
Timothy W. Clare,  
                  Defendant,  
William J. Poisson, &c., et al.,  
                  Respondents.

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

2                    Mo. No. 2011-421  
Robert Snyder,  
                          Appellant,  
et al.,  
                          Plaintiff,  
                          v.  
Allstate Insurance Company,  
                          Respondent.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed the Supreme Court order dismissing the complaint, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portions of the Appellate Division order sought to be appealed from do not finally determine the action within the meaning of the Constitution.

2                    Mo. No. 2011-402  
In the Matter of Marticia  
Springfield,  
                          Appellant,  
                          v.  
Town of Huntington Housing  
Authority, et al.,  
                          Respondents.

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

3                    Mo. No. 2011-389  
In the Matter of Injah Tafari,  
                          Appellant,  
                          v.  
Brian Fischer, &c.,  
                          Respondent.  
Appellate Division No. 510180

Motion for leave to appeal denied.

3                    Mo. No. 2011-388  
In the Matter of Injah Tafari,  
                          Appellant,  
                          v.  
David A. Rock, &c.,  
                          Respondent.  
Appellate Division No. 510507

Motion for leave to appeal denied.

1                   Mo. No. 2011-384  
In the Matter of Damon Bruce W.,  
Jr., &c.,

Yvonne M.G., &c.,  
                  Appellant,  
The Children's Aid Society,  
                  Respondent.

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

1                   Mo. No. 2011-391  
In the Matter of Afshin  
Zartoshti,

                  Appellant,  
                  v.  
Columbia University,  
                  Respondent.

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