

June 28, 2011

CASES

1 No. 124
ABN AMRO Bank, N.V. et al.,
 Appellants,
Barclays Bank PLC, et al.
 Plaintiffs,
 v.
MBIA Inc., et al.,
 Respondents.

Order modified, without costs, in accordance with the opinion herein and, as so modified, affirmed. Opinion by Judge Ciparick. Chief Judge Lippman and Judges Smith, Pigott and Jones concur. Judge Read dissents in an opinion in which Judge Graffeo concurs.

1 No. 126
Brad H., et al.,
 Appellants,
 v.
The City of New York, et al.,
 Respondents.

Order reversed, with costs, order of Supreme Court, New York County, reinstated, and certified question answered in the negative. Opinion by Judge Graffeo. Chief Judge Lippman and Judges Ciparick and Jones concur. Judge Pigott dissents and votes to affirm in an opinion in which Judges Read and Smith concur.

1 No. 117
John McCarthy, et al.,
 Plaintiffs,
 v.
Turner Construction, Inc.,
 Defendant,
John Gallin & Son, Inc.,
 Respondent,
Boston Properties, Inc., et al.,
 Appellants.
(And Other Actions.)

Order affirmed, with costs, and certified question answered in the affirmative. Opinion by Judge Jones. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

1 No. 137
The People &c.,
 Respondent,
 v.
David Lance Paulin,
 Appellant.

Order reversed and case remitted to
Supreme Court, Bronx County, for
further proceedings in accordance with
the opinion herein.
Opinion by Judge Smith.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Pigott and
Jones concur.

2 No. 143 SSM 27
The People &c.,
 Appellant,
 v.
James F. Phillips,
 Respondent.

On review of submissions pursuant to
section 500.11 of the Rules, appeal
dismissed.
Opinion by Judge Smith.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Pigott and
Jones concur.

1 No. 138
The People &c.,
 Respondent,
 v.
Jesus Pratts,
 Appellant.

Order reversed and case remitted to
Supreme Court, Bronx County, for
further proceedings in accordance with
the opinion herein.
Opinion by Judge Smith.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Pigott and
Jones concur.

1 No. 214 SSM 23
Rezplex, L.L.C.,
 Respondent,
 v.
The New York City Department of
Housing Preservation and
Development, et al.,
 Appellants.

On review of submissions pursuant to
section 500.11 of the Rules, 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.

1 No. 139
The People &c.,
 Respondent,
 v.
Nydia Santiago,
 Appellant.

Order reversed and case remitted to
Supreme Court, Bronx County, for
further proceedings in accordance with
the opinion herein.
Opinion by Judge Smith.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Pigott and
Jones concur.

MOTIONS

2 Mo. No. 2011-495
Joel L. Amaker, Sr.,
 Appellant,
 v.
Elizabeth V. Wright, P.C.,
 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.

3 SSD 27
In the Matter of Carlos Abreu,
 Appellant,
 v.
Norman R. Bezio, as Director of
Special Housing and Inmate
Disciplinary Programs,
 Respondent.

Appeal, insofar as taken from the Appellate Division order denying leave to appeal to this Court, dismissed without costs, by the Court sua sponte, upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; appeal, insofar as taken from the Appellate Division judgment dismissing the petition, dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

4 Mo. No. 2011-497
In the Matter of Juliani B.

Erie County Department of Social
Services,
 Respondent;
Denise M.,
 Appellant;
et al.,
 Respondent.

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

4 Mo. No. 2011-509
In the Matter of Tumario B., Jr.

Motion for leave to appeal denied.

Onondaga County Department of
Social Services,
 Respondent;
Valerie L.,
 Appellant.

1 Mo. No. 2011-517
Brad H., et al.,
 Appellants,
 v.
The City of New York, et al.,
 Respondents.

Motion to supplement the record on
appeal denied.

2 Mo. No. 2011-516
Burlington Insurance Company,
 Appellant,
 v.
Galindo & Ferreira Corp.,
 Respondent,
et al.,
 Defendants.

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

2 Mo. No. 2011-526
The People &c.,
 Respondent,
 v.
Quentin L. Bussie,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2011-481
In the Matter of Michael C.
et al.

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

Steuben County Department of
Social Services,
 Respondent;
Michael C.,
 Appellant.

2 Mo. No. 2011-514
Daniel Costigan,
Respondent,
v.
Elizabeth A. Renner,
Appellant.

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

2 Mo. No. 2011-511
Sandra Datena,
Appellant,
v.
JP Morgan Chase Bank,
Respondent,
et al.,
Defendant.

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

3 SSD 25
In the Matter of Michael
Diederich, Jr., Individually and
on Behalf of all Taxpayers of the
County of Rockland,
Appellant,
et. al.,
Petitioner,
v.
Christopher St. Lawrence,
Defendant,
Holland & Knight, LLP, et al.,
Respondents.

Appeal, insofar as taken from the Appellate Division order denying the motion for reargument or leave to appeal, dismissed without costs, by the Court sua sponte, upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; appeal otherwise dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

2 Mo. No. 2011-515
Thomas Dockery, et al.,
Respondents,
v.
Stanley Sprecher, &c., et al.,
Respondents,
M. Chris Overby et al.,
Appellants.

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

1 Mo. No. 2011-486
In the Matter of Daniel E., &c.,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2011-227
In the Matter of the State of New
York,
 Respondent,
 v.
Daniel Flagg,
 Appellant.

Motion for leave to appeal granted.
Motion for poor person relief granted.

2 Mo. No. 2011-491
Cynthia Frenchman, &c.,
 Respondent,
 v.
Westchester Medical Center,
et al.,
 Appellants,
et al.,
 Defendants.

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

1 Mo. No. 2011-502
Skip Funt,
 Appellant,
 v.
Human Resources Administration of
the City 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.

1 Mo. No. 2011-507
GoSmile, Inc., &c.,
 Respondent,
 v.
Jonathan B. Levine, D.D.S., &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.

3 SSD 26
Mary Grandy,
 Respondent,
 v.
James A. McKay et al.,
 Appellants.
(Action No. 1.)

Frances I. Sindlinger,
 Respondent,
 v.
James A. McKay et al.,
 Appellants.
(Action No. 2.)

2 Mo. No. 2011-407
Michael Grucci,
 Appellant,
 v.
Christine Grucci,
 Respondent.

4 Mo. No. 2011-453
State of New York ex rel. Kevin
Grupp and Robert Moll,
 Appellants,
 v.
DHL Express (USA), Inc., et al.,
 Respondents.

3 Mo. No. 2011-500
In the Matter of Barbara Hester,
 Appellant,
 v.
Homemakers Upstate Group et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the actions within the meaning of the Constitution.

Motion for leave to appeal granted.

Motion for leave to appeal granted.

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

1 Mo. No. 2011-479
Ronald Jacobus,
 Appellant,
 v.
Battery Park Hotel Management,
LLC,
 Respondent.

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

2 Mo. No. 2011-525
Nelly Jean,
 Appellant,
 v.
Hortense Wright, et al.,
 Respondents.

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

4 Mo. No. 2011-505
Charles R. Kirby et al.,
 Appellants,
 v.
Suburban Electrical Engineers
Contractors, Inc.,
 Respondent,
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.

2 Mo. No. 2011-521
Board of Managers of Village View
Condominium,
 Appellant,
 v.
Donata Forman,
 Respondent.

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

4 Mo. No. 2011-506
In the Matter of Alexander M.

Oneida County Department of
Social Services,
 Respondent;
Cindy M.,
 Respondent;
Michael M.,
 Appellant.

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

2 Mo. No. 2011-510
In the Matter of Nyece M.
(Anonymous).

Motion for leave to appeal denied.

Administration for Children's
Services,
 Respondent;
Rommel M. (Anonymous),
 Appellant.

2 Mo. No. 2011-473
In the Matter of Marvin Pollack,
 Appellant;
State of New York, 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.

1 Mo. No. 2011-483
Prime Income Asset Management,
Inc. et al.,
 Appellants,
 v.
American Real Estate Holdings,
L.P. et al.,
 Respondents.
(And a Third-Party Action.)

Motion for leave to appeal denied.

2 Mo. No. 2011-513
Town of Putnam Valley, et al.,
 Respondents,
 v.
Thomas Cabot, et al.,
 Defendants,
Alexander Kaspar,
 Appellant.
Grace De Libero,
 Nonparty.

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. 2011-498
In the Matter of Sebastian E.
Rodriguez,
 Appellant,
 v.
County of Nassau, et al.,
 Respondents.

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

2 Mo. No. 2011-512
In the Matter of Charlie S.
(Anonymous).

Administration for Children's
Services,
 Respondent;
Rong S. (Anonymous),
 Appellant;
et al.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2011-611
The People &c.,
 Respondent,
 v.
Nydia Santiago,
 Appellant.

Motion to strike portions of
defendant's brief denied.

3 Mo. No. 2011-503
In the Matter of John Santiago,
 Appellant,
 v.
George B. Alexander, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2011-478
Rafaela Santos, et al.,
 Appellants,
 v.
County of Westchester, et al.,
 Defendants,
City of New York,
 Respondent.
(And a Third-Party Action.)

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

1 Mo. No. 2011-490
Sea Trade Maritime Corp.,
 Appellant,
 v.
Hellenic Mutual War Risks
Association (Bermuda) Ltd.,
et al.
 Respondents,
George Christy Peters,
 Appellant,
Miller Marine Ltd., et al.,
 Defendants.
(And a Third Party Action.)

Motion to vacate this Court's March 23, 2011 order of dismissal granted. On the Court's own motion, appeal, insofar as taken from that portion of the December 2010 Appellate Division order as affirmed so much of Supreme Court's judgment recognizing the foreign arbitration awards and recognizing the foreign judgment, dismissed, without costs, upon the ground that no substantial constitutional question is directly involved; appeal otherwise dismissed, without costs, upon the ground that the remaining portion of the order appealed from does not finally determine the action within the meaning of the Constitution. Motion for leave to appeal, insofar as it seeks leave to appeal from that portion of the December 2010 Appellate Division order as affirmed so much of Supreme Court's judgment recognizing the foreign arbitration awards and recognizing the foreign judgment, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the December 2010 Appellate Division order and the March 2011 Appellate Division order sought to be appealed from do not finally determine the action within the meaning of the Constitution.

3 Mo. No. 2011-475
In the Matter of Shop-Rite
Supermarkets, Inc., et al.,
 Appellants,
et al.,
 Petitioner,
 v.
Planning Board of the Town of
Wawarsing et al.,
 Respondents.
(And Another Proceeding.)

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

3 Mo. No. 2011-474
In the Matter of Shop-Rite
Supermarkets, Inc., et al.,
 Appellants,
et al., Petitioner,
 v.
Town Board of the Town of
Wawarsing et al.,
 Respondents.

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

4 Mo. No. 2011-496
David F. Stever,
 Appellant,
 v.
HSBC Bank USA, N.A., &c.,
 Respondents,
et al., Defendant.

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

3 Mo. No. 2011-504
In the Matter of Anthony TT.
et al., &c.

St. Lawrence County Department of
Social Services,
 Respondent;
Philip TT.,
 Appellant.

Motion for leave to appeal denied.
Judge Pigott took no part.

1 Mo. No. 2011-476
Unitrin Advantage Insurance
Company,
 Respondent,
 v.
Bayshore Physical Therapy, PLLC,
et al., Defendants,
Dr. Martin Bassiur, DDS, &c.,
et al., Appellants.

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

2 Mo. No. 2011-508
The People &c.,
 Respondent,
 v.
Vassilios Vevgas,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-499
Volunteer & Exempt Firemen's
Association of Garden City,
 Appellant,
 v.
Local 1588 of the Professional
Firefighters Association of
Nassau County, et al.,
 Respondents.

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

2 Mo. No. 2011-492
Patricia Whitelock,
 Appellant,
 v.
Morgan Stanley Smith Barney, LLC,
et al.,
 Respondents.

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