

April 2, 2013

CASES

1                    No. 46  
The People &c.,  
    Appellant,  
    v.  
Anthony Griffin,  
    Respondent.

Order affirmed.  
Opinion by Judge Rivera.  
Chief Judge Lippman and Judges Graffeo, Read,  
Smith and Pigott concur.

4                    No. 32  
The People &c.,  
    Appellant-Respondent,  
    v.  
Gerard Ippolito, Also Known as  
Gerald Ippolito,  
    Respondent-Appellant.

Order affirmed.  
Opinion by Judge Read.  
Chief Judge Lippman and Judges Graffeo, Smith and  
Pigott concur.  
Judge Rivera took no part.

1                    No. 41  
The People &c.,  
    Respondent,  
    v.  
William Monroe,  
    Appellant.

Order reversed and case remitted to Supreme Court,  
New York County, for further proceedings in  
accordance with the memorandum herein.  
Chief Judge Lippman and Judges Graffeo, Read,  
Smith and Pigott concur.  
Judge Rivera took no part.

4                    No. 51  
Lisa M. Oakes, Individually and as Executrix  
of the Estate of Daniel C. Oakes, Deceased,  
    Respondent,  
    v.  
Rajnikant Patel, M.D., et al.,  
    Appellants.

Order modified, without costs, in accordance with the  
opinion herein, and as so modified, affirmed, and  
certified question not answered upon the ground that  
it is unnecessary.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Graffeo, Read,  
Pigott and Rivera concur.

4                    No. 49  
In the Matter of City of Oswego,  
                  Appellant,  
          v.  
Oswego City Firefighters Association, Local  
2707,  
                  Respondent.

Order reversed, with costs, and the petition to vacate the arbitration award granted, in a memorandum. Judges Graffeo, Smith and Pigott concur. Judge Read concurs in the result. Chief Judge Lippman dissents in an opinion in which Judge Rivera concurs.

3                    No. 121 SSM 4  
In the Matter of the City of Utica,  
                  Respondent,  
          v.  
Richard F. Daines, as Commissioner of  
Health, et al.,  
                  Appellants,  
Utica Ambulance Service, Inc., Doing  
Business as Kunkel Ambulance Service,  
                  Intervenor-Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, without costs, and the proceeding remitted to Supreme Court, Albany County, with directions to dismiss the proceeding solely on the ground of mootness. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.

2                    No. 48  
In the Matter of City of Yonkers,  
                  Respondent,  
          v.  
Yonkers Fire Fighters, Local 628, IAFF,  
AFL-CIO,  
                  Appellant.

Order affirmed, with costs.  
Opinion by Judge Pigott.  
Judges Graffeo, Read and Smith concur.  
Chief Judge Lippman dissents and votes to reverse in an opinion in which Judge Rivera concurs.

## MOTIONS

1                    Mo. No. 2013-150  
In the Matter of Marlyn J'ace A., &c.

Lynora A.,  
Appellant,  
Edwin Gould Services for Children and  
Families,  
Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2013-205  
The People &c. ex rel. Hilary Best,  
Appellant,  
v.  
Ann Marie Barbarotta, &c.,  
Respondent.

Motion for leave to appeal dismissed upon the  
ground that the issues presented have become moot.  
Motion for a stay dismissed as academic.

3                    Mo. No. 2013-92  
Randy Bond,  
Appellant-Respondent,  
v.  
Daniel Giebel, et al.,  
Defendants.  
Progressive Insurance Company,  
Respondent-Appellant.  
(And Another Action.)

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that the order  
appealed from does not grant a new trial or hearing  
within the meaning of CPLR 5601(c) (see Karger,  
Powers of the New York Court of Appeals § 8:3, at  
258 [3d ed rev]).  
Motions for leave to appeal dismissed upon the  
ground that the order sought to be appealed from  
does not finally determine the actions within the  
meaning of the Constitution.

3                    Mo. No. 2013-172  
In the Matter of Brooklyn Hospital Center,  
                  Appellant,  
                  v.  
Nirav R. Shah, &c., et al.,  
                  Respondents.  
(And Three Other Proceedings.)

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

2                    Mo. No. 2013-187  
Gail Cave, &c.,  
                  Appellant,  
                  v.  
Riverbend Homeowners Association, Inc., et  
al.,  
                  Respondents,  
et al.,  
                  Defendant.

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. 2013-162  
Concord Capital Mgt., LLC,  
et al.,  
                  Appellants,  
                  v.  
Bank of America, N.A., &c.,  
et al.,  
                  Respondents,  
Ira L. Brody,  
                  Defendant.

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

1                    Mo. No. 2013-201  
Executive Risk Indemnity, Inc.,  
                  Respondent,  
                  v.  
Starwood Hotels & Resorts Worldwide, Inc.  
et al.,  
                  Appellants.

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

1 Mo. No. 2013-204  
Herbert Feinberg, &c.,  
Appellant,  
v.  
Jerome S. Boros, Esq., et al.,  
Respondents.

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

1 Mo. No. 2013-177  
James Garten,  
Appellant,  
v.  
Shearman & Sterling LLP,  
Respondent.

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

2 Mo. No. 2013-208  
Hamlet at Willow Creek Development Co.,  
LLC, et al.,  
Respondents,  
v.  
Northeast Land Development Corporation,  
Respondent,  
Pav-Co Asphalt, Inc. et al.,  
Appellants,  
et al.,  
Defendant.  
(And a Third-Party Action.)

Motion for leave to appeal, insofar as made by William Fehr, dismissed upon the ground that he is not a party aggrieved; motions 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.

4 Mo. No. 2013-144  
Philip F. Hanlon,  
Appellant,  
v.  
Michael D. Healy,  
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. 2013-175  
O. Aldon James, Jr., et al.,  
Appellants,  
v.  
The National Arts Club, 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.  
Judge Read took no part.

4 Mo. No. 2013-169  
In the Matter of Jordan.

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

Teresa J.,  
Respondent,  
Tanya H.,  
Appellant.  
(And Another Proceeding.)

4 Mo. No. 2013-105  
In the Matter of Malinda A. Prinzing et al.,  
Appellants,  
v.  
Paul G. Guck et al.,  
Respondents.  
(And Other Proceedings.)

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

2 SSD 17  
In the Matter of Kenneth Robinson,  
Appellant,  
v.  
Jeffrey Arlen Spinner et al.,  
Respondents.

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

1 Mo. No. 2013-157  
The People &c.,  
Respondent,  
v.  
David Rodriguez,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2013-23  
In the Matter of Amerriah S.

Administration for Children's Services,  
Respondent;  
Chris S.,  
Appellant;  
et al.,  
Respondent.  
(And Two Other Proceedings.)

Motion for leave to appeal dismissed upon the ground that the Appellate Division order sought to be appealed from, affirming the Family Court fact-finding order, does not finally determine the proceeding within the meaning of the Constitution. The final paper in this proceeding was the Family Court dispositional order.

1 Mo. No. 2013-232  
Marlene Scher,  
Appellant,  
v.  
Paramount Pictures Corp. 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.

1 Mo. No. 2013-217  
Philip Seldon,  
Appellant,  
v.  
Andrew Spinnell,  
Respondent.

Motion for reargument of motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements. Cross motion for the imposition of sanctions denied. Judge Rivera took no part.

1 Mo. No. 2013-234  
Sony Ericsson Mobile Communications USA,  
Inc.,  
Appellant,  
v.  
LSI Corporation,  
Respondent.

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

1                    Mo. No. 2013-173  
Springwell Navigation Corp.,  
    Respondent,  
    v.  
Sanluis Corporacion, S.A.,  
    Appellant.

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

1                    Mo. No. 2013-166  
In the Matter of The State of New York,  
    Respondent,  
    v.  
David S.,  
    Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2013-153  
Thomas J. Hayes & Associates, LLC,  
    Respondent,  
    v.  
Mark E. Brodsky,  
    Appellant.

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

3                    Mo. No. 2013-185  
In the Matter of Virginia Thorenz,  
    Respondent,  
    v.  
Board of Education of the Monticello Central  
School District,  
    Appellant,  
et al.,  
    Respondent.

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



2 Mo. No. 2013-167  
Tony Shafrazi Gallery, Inc.,  
Plaintiff,  
Guido Orsi,  
Appellant,  
v.  
Christie's Inc., &c.,  
Respondent,  
John Doe 1, et al.,  
Defendants.

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

1 Mo. No. 2013-188  
Vitro S.A.B. de C.V.,  
Appellant,  
v.  
Aurelius Capital Management, L.P., et al.,  
Respondents.

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

3 Mo. No. 2013-184  
Wells Fargo, N.A., &c.,  
Respondent,  
v.  
Ofra Levin,  
Appellant,  
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.

1 SSD 15  
The People &c.,  
Respondent,  
v.  
Western Express International, Inc., et al.,  
Defendants,  
Douglas Latta and Angela Perez, Also Known  
as Anna Ciano,  
Appellants.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that it does not lie. The terms of this Court's remittitur were not violated.

2                    Mo. No. 2013-171  
The People &c.,  
    Respondent,  
    v.  
Ali Williams,  
    Appellant.

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

2                    Mo. No. 2013-220  
Thomas Wolff,  
    Appellant,  
    v.  
Julie E. Glick &c., et al.,  
    Respondents.

Motion for leave to appeal denied.