

December 10, 2013

CASES

1 No. 212
Maria Auqui, &c., et al.,
 Respondents,
 v.
Seven Thirty One Limited Partnership, et al.,
 Appellants.

Upon reargument, this Court's decision of February 14, 2013 vacated, the remittitur recalled, the order appealed from affirmed, with costs, and the certified question answered in the affirmative.
Opinion by Chief Judge Lippman.
Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

4 No. 258 SSM 33
In the Matter of David H. Dalton, II,
 Respondent,
 v.
Akron Central Schools,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. The courts below did not abuse their discretion in granting claimant's application to file and serve a late notice of claim (see Williams v Nassau County Med. Ctr., 6 NY3d 531 [2006]).
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

In the Matter of the Hon. Cathryn M. Doyle,
Surrogate of Albany County.

On the Court's own motion, it is determined that Honorable Cathryn M. Doyle is suspended with pay, effective immediately, from the office of Surrogate of Albany County, pending disposition of her request for review of a determination by the State Commission on Judicial Conduct.
Chief Judge Lippman and Judges Read, Smith, Pigott, Rivera and Abdus-Salaam concur.
Judge Graffeo took no part.

No. 249
In the Matter of the Honorable Glen R.
George, a Justice of the Middletown Town
Court, Delaware County,
Petitioner,
State Commission on Judicial Conduct,
Respondent.

Determined sanction accepted, without costs, and
Glen R. George removed from the office of Justice of
the Middletown Town Court, Delaware County.
Opinion Per Curiam.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Rivera and Abdus-Salaam concur.
Judge Pigott dissents and votes to impose the
sanction of admonition in an opinion.

1 No. 245
In the Matter of James Holmes,
Respondent,
v.
Jana Winter,
Appellant,

Order reversed, without costs, and petition dismissed.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Rivera and Abdus-
Salaam concur.
Judge Smith dissents and votes to affirm in an
opinion in which Judge Pigott concurs.
Judge Read dissents and votes to affirm for the
reasons stated in the opinion by Justice Darcel D.
Clark at the Appellate Division (110 AD3d 134).

No. 256 SSM 11
The People &c.,
Respondent,
v.
Roosevelt Jennings,
Appellant.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 233
The People of the State of New York,
 Appellant,
 v.
Donald O'Toole,
 Respondent.

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

 No. 260
Quadrant Structured Products Co., Ltd., &c.,
 Appellant,
 v.
Vincent Vertin, et al.,
 Respondents.

Certification of questions by the Supreme Court of
the State of Delaware, 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 Lippman and Judges Graffeo, Read,
Smith, Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

2 Mo. No. 2013-1182
The People &c.,
 Respondent,
 v.
Churchill Andrews,
 Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 2 Rector Street, 10th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2013-1186
The People &c.,
 Respondent,
 v.
Ivan Calaff,
 Appellant.

Motion to strike Point II of appellant's brief denied.

3 Mo. No. 2013-1189
Cooperstown Holstein Corporation,
 Appellant,
 v.
Town of Middlefield,
 Respondent.

Motion by Town of Ulysses 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. Two copies of the brief must be served and an original and nine copies filed within seven days.

1 Mo. No. 2013-1145
Brenda Cornell,
 Respondent,
 v.
360 West 51st Street Realty, LLC, et al.,
 Defendants,
360 W. 51st Street Corp.,
 Appellant.

Motion to enlarge the record on appeal denied. Judge Abdus-Salaam took no part.

1 Mo. No. 2013-1202
Brenda Cornell,
 Respondent,
 v.
360 West 51st Street Realty, LLC, et al.,
 Defendants,
360 W. 51st Street Corp.,
 Appellant.

Motion by Council of New York Cooperatives &
Condominiums for leave to appear amicus curiae on
the appeal herein granted only to the extent that the
proposed brief is accepted as filed.
Judge Abdus-Salaam took no part.

4 Mo. No. 2013-1181
In the Matter of Tyrone D.,
 Appellant,
 v.
State of New York, et al.,
 Respondents.

Motion for poor person relief granted.

1 Mo. No. 2013-1096
The People &c.,
 Respondent,
 v.
Alexander Dockery,
a/k/a John Harris,
 Appellant.

Motion to vacate this Court's October 18, 2013
preclusion order granted.
Motion to strike portions of the respondent's
appendix and the related references in the
respondent's brief granted.

1 Mo. No. 2013-1177
In the Matter of Empire Center for New York
State Policy,
 Appellant,
 v.
Teachers' Retirement System of the City of
New York,
 Respondent.

In the Matter of Empire Center for New York
State Policy,
 Appellant,
 v.
New York State Teachers' Retirement
System,
 Respondent.

 Mo. No. 2013-1147
Executive Plaza, LLC,
 Appellant,
 v.
Peerless Insurance Company,
 Respondent.

 Mo. No. 2013-1217
Executive Plaza, LLC,
 Appellant,
 v.
Peerless Insurance Company,
 Respondent.

Motion by New York State United Teachers for
leave to file a brief amicus curiae on the appeals
herein granted and the proposed brief is accepted as
filed. Two copies of the brief must be served and an
original and nine copies filed within seven days.
Judge Abdus-Salaam took no part.

Motion by United Policyholders for leave to file a
brief amicus curiae on consideration of the certified
question herein granted and the proposed brief is
accepted as filed.

Motion by New York Public Adjusters Association
for leave to file a brief amicus curiae on
consideration of the certified question herein granted
and the proposed brief is accepted as filed. Two
copies of the brief must be served and an original
and nine copies filed within seven days.

1 Mo. No. 2013-1156
K2 Investment Group, LLC, et al.,
Respondents-Appellants,
v.
American Guarantee & Liability Insurance
Company,
Appellant-Respondent.

Motion by United Policyholders for leave to file a
brief amicus curiae on the appeal herein granted and
the proposed brief is accepted as filed.
Judge Abdus-Salaam took no part.

1 Mo. No. 2013-1166
K2 Investment Group, LLC, et al.,
Respondents-Appellants,
v.
American Guarantee & Liability Insurance
Company,
Appellant-Respondent.

Motion by New York Insurance Association, Inc. et
al. 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 and an
original and nine copies filed within seven days.
Judge Abdus-Salaam took no part.

1 Mo. No. 2013-1187
K2 Investment Group, LLC, et al.,
Respondents-Appellants,
v.
American Guarantee & Liability Insurance
Company,
Appellant-Respondent.

Motion by Complex Insurance Claims Litigation
Association et al. 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 and an original and nine copies filed within
seven days.
Judge Abdus-Salaam took no part.

3 Mo. No. 2013-1190
In the Matter of Norse Energy Corporation
USA,
Appellant,
v.
Town of Dryden et al.,
Respondents.
Dryden Resources Awareness Coalition,
Proposed Intervenor.

Motion by Town of Ulysses et al. 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 and an
original and nine copies filed within seven days.

3 Mo. No. 2013-1151
The People &c.,
Respondent,
v.
Samuel McLean,
Appellant.

Motion for assignment of counsel granted and
Danielle Neroni Reilly, Esq., 668 Madison Ave.,
Albany, NY 12208 assigned as counsel to the
appellant on the appeal herein.

3 Mo. No. 2013-1079
In the Matter of Joannis P.
et al., &c.

Motion for leave to appeal denied.

Schenectady County Department of Social
Services,
Respondent;
Joseph Q.,
Appellant.
(And Another Related Proceeding.)

3 Mo. No. 2013-1100
The People of the State of New York ex rel.
Robert I. Reed,
Appellant,
v.
Jeffrey Tedford, &c.,
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. 2013-997
In the Matter of Chanel T. (Anonymous).

Motion for leave to appeal denied.

Administration for Children's Services,
Respondent;
Guillaume T.,
Appellant;
et al.,
Respondent.
(And Other Proceedings.)

1 Mo. No. 2013-825
In the Matter of State of New York,
 Respondent,
 v.
Charada T.,
 Appellant.

Motion for leave to appeal granted.

3 Mo. No. 2013-1203
The People &c.,
 Respondent,
 v.
Adrian P. Thomas,
 Appellant.

Motion by New York Law School Post-Conviction
Innocence Clinic 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 and an original and nine copies filed
within seven days.

3 Mo. No. 2013-1204
The People &c.,
 Respondent,
 v.
Adrian P. Thomas,
 Appellant.

Motion by American Psychological Association 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 and an original and nine copies filed within
seven days.

3 Mo. No. 2013-1216
The People &c.,
 Respondent,
 v.
Adrian P. Thomas,
 Appellant.

Motion by Innocence Network 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 and an
original and nine copies filed within seven days.

3 Mo. No. 2013-1223
The People &c.,
Respondent,
v.
Adrian P. Thomas,
Appellant.

The People &c.,
Respondent,
v.
Paul Aveni,
Appellant.

3 Mo. No. 2013-1229
The People &c.,
Respondent,
v.
Adrian P. Thomas,
Appellant.

1 Mo. No. 2013-1208
Union Square Park Community Coalition,
Inc., et al.,
Appellants,
v.
New York City Department of Parks and
Recreation, et al.,
Respondents.

1 Mo. No. 2013-1215
Union Square Park Community Coalition,
Inc., et al.,
Appellants,
v.
New York City Department of Parks and
Recreation, et al.,
Respondents.

Motion by District Attorneys Association of the State of New York for leave to file a brief amicus curiae on the appeals herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and an original and nine copies filed within seven days.

Motion by New York City Bar Association 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 and an original and nine copies filed within seven days.

Motion by New York State Senator Liz Krueger 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 an original and nine copies filed within seven days.

Motion by Union Square Partnership et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.

1 Mo. No. 2013-1218
Union Square Park Community Coalition,
Inc., et al.,
 Appellants,
 v.
New York City Department of Parks and
Recreation, et al.,
 Respondents.

Motion by New Yorkers for Parks for leave to file a
brief amicus curiae on the appeal herein granted and
the proposed brief is accepted as filed.

1 Mo. No. 2013-1225
Union Square Park Community Coalition,
Inc., et al.,
 Appellants,
 v.
New York City Department of Parks and
Recreation, et al.,
 Respondents.

Motion by Raritan Baykeeper, Inc. 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 an original
and nine copies filed within seven days.